

2500
No. 11758

United States
Circuit Court of Appeals
For the Ninth Circuit

ESTATE OF JOSEPH H. HEIDT, Deceased;
LOUISE SEELEY, Executrix,
Petitioner,

vs.


COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Transcript of the Record

Upon Petition to Review a Decision of the Tax Court
of the United States

FILED
APR 23 1948

PAUL P. O'BRIEN,
CLERK



Digitized by the Internet Archive
in 2010 with funding from
Public.Resource.Org and Law.Gov

No. 11758

United States
Circuit Court of Appeals
For the Ninth Circuit

ESTATE OF JOSEPH H. HEIDT, Deceased;
LOUISE SEELEY, Executrix,
Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Transcript of the Record

Upon Petition to Review a Decision of the Tax Court
of the United States

INDEX

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

	PAGE
Answer	13
Appearances	1
Certificate of Clerk	199
Decision	33
Docket Entries	2
Findings of Fact and Opinion.....	15
Findings of Fact	16
Opinion	22
Notice of Filing Petition for Review.....	185
Official Report of Proceedings.....	34
Witnesses for Petitioner:	
Bull, Ingall W.	
—direct	98
—cross	103
Seeley, Louise	
—direct	36
—cross	73, 110
—redirect	115

Petition	4
Exhibit A—Notice of Deficiency.....	9
Petition for Review of Decision of the Tax Court of the United States.....	165
Petitioner's and Respondent's Joint Exhibit 1-A—Estate Tax Return	116
Petitioner's Designation of Contents of Record on Review	197
Petitioner's Exhibit 2—Weise to Heidt.....	161
Petitioner's Statement of Points to Be Relied Upon and Designation of Parts of Record to Be Printed	186

APPEARANCES

For Taxpayer:

CLAUDE I. PARKER, ESQ.,

RALPH W. SMITH, ESQ.,

JOHN MOORE ROBINSON, ESQ.,

For Commissioner:

H. A. MELVILLE, ESQ.,

Tax Court of the United States

Docket No. 5802

ESTATE OF JOSEPH H. HEIDT, deceased,
LOUISE SEELEY, executrix,
Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Transferred to Judge Harlan 12/4/46

DOCKET ENTRIES

1944

Aug. 14—Petition received and filed. Taxpayer notified. Fee paid.

Aug. 15—Copy of petition served on General Counsel.

Sept. 21—Answer filed by General Counsel.

Sept. 21—Request for Circuit hearing in Los Angeles, Calif., filed by General Counsel.

Sept. 26—Notice issued placing proceeding on Los Angeles calendar. Service of answer and request made.

1945

Sept. 6—Motion to place proceeding on the Reserve calendar, filed by General Counsel.
9/11/45 Granted to Reserve A.

1946

Jan. 30—Motion to restore to the Los Angeles, Calif. calendar, filed by General Counsel. 2/1/46 Granted.

Apr. 16—Hearing set June 10, 1946 in Los Angeles, California.

June 21—Hearing had before Judge Black on merits. Appearance of R. W. Smith, and J. M. Robinson as counsel, filed. Petitioner's brief 8/5/46. Respondent's brief 9/5/46 and Petitioner's reply brief 10/5/46.

July 8—Transcript of hearing 6/21/46 filed.

Aug. 5—Motion for extension to 9/1/46 for petitioner's opening brief and to Oct. 1, 1946 for respondent's brief filed by taxpayer. 8/5/46 Granted.

Sept. 9—Motion for leave to file the attached brief, brief lodged, filed by petitioner. Granted. 9/10/46 Copy served.

Oct. 8—Brief filed by General Counsel. Copy served.

1947

May 6—Findings of fact and opinion rendered, Judge Harlan. Decision will be entered for the respondent. Copy served.

May 6—Decision entered. Judge Harlan. Div. 11.

1947

Aug. 4—Petition for review by U. S. Circuit Court of Appeals, 9th Circuit, with assignments of error filed by petitioner.

Aug. 4—Proof of service filed.

Aug. 29—Certified copy of order from U. S. Circuit Court of Appeals, 9th Circuit, enlarging time to sixty days from 9/13/47 for transmission of record filed.

Sept. 24—Designation of contents of record filed by petitioner, with acknowledgement of service thereon.

Sept. 24—Statement of points to be relied upon and designation of parts of record to be printed, filed by petitioner, with acknowledgment of service thereon. [2*]

[Title of Tax Court and Cause.]

PETITION

The above named Petitioner hereby petitions for a re-determination of the deficiency set forth by the Commissioner of Internal Revenue in his notice of deficiency LA:ET:90D:NAB, dated May 19, 1944, and as a basis of this proceeding alleges as follows:

1. Petitioner, Louise Seeley, is the duly appointed, qualified and acting executrix of the Estate of Joseph H. Heidt, deceased.

*Page numbers appearing at top of page of Reporter's Certified Transcript of Record.

2. The notice of deficiency, copy of which is attached hereto and marked "Exhibit A," was mailed to the Petitioner on or about May 19, 1944.

3. The tax in controversy is estate tax in the total amount of \$16,435.01.

4. The determination of tax set forth in said notice of deficiency is based upon the following errors: [3]

Respondent has overstated the net estate for basic tax and for additional tax to the extent of \$76,-942.35 in that he has included the entire value of Items 1 to 8 inclusive, shown in his notice of deficiency under the heading "Explanation of Changes," whereas he should have included not in excess of one-fourth the entire value of all of said items, with the exception of Item 5, as to which Item he should not have included any portion of the value.

5. The facts upon which the Petitioner relies as a basis of this proceeding are as follows:

(a) For a period of about thirty-five years prior to the decease of Joseph H. Heidt, Louise Heidt Seeley, (formerly Louise Heidt) was engaged in the business of an interior decorator, having contacts with all the leading department stores in the city of Los Angeles, from which business she realized substantial earnings.

(b) Louise Heidt Seeley inherited some property from her father's estate during or about the year 1891. By reason of her ownership of the property so inherited, she acquired other properties which she disposed of and with the proceeds realized from this source, plus the

profits arising from her activities as an interior decorator, she accumulated substantial separate funds which were used in the purchase of the properties held by her husband and herself as joint tenants at the time of the husband's decease on November 22, 1942.

(c) The properties, both real and personal, set forth in the Respondent's notice of deficiency, (Exhibit "A"), excepting Lot 24 of Sunset Park Tract in the city of Los Angeles, listed as Item 3 in the deficiency notice, and excepting the promissory note secured by a trust deed listed as Item 5 in the Respondent's notice of deficiency, were acquired by the decedent and his wife subsequent to January 1, 1928, and the full considerations paid therefor, or from which said properties resulted, consisted of the separate estate of the wife and of the community property of herself and Joseph H. Heidt.

(d) Lot 24 of said Sunset Park Tract, mentioned in the preceding paragraph, was acquired by decedent and his then wife during the month of December, 1920, as joint tenants, and more than one-half the cost thereof was contributed by Louise Heidt from her own separate property.

(e) The property securing the promissory note listed as Item 5 in the deficiency notice, was acquired during the month of October, 1906, by Louise Heidt as her sole and separate property and so remained until it was sold,

and a trust deed was taken in the name of said Joseph H. Heidt and Louise Heidt as joint tenants.

(f) More than three-fourths of the total consideration and contribution paid for the properties itemized in the attached Exhibit "A", with the exception of the two properties specifically mentioned above, originally belonged to the surviving joint tenant, Louise Heidt Seeley, having originated from her separate estate and her separate earnings from the interior decorating business.

Wherefore, Petitioner prays that this Court may hear this petition and determine, (1), that at least three-fourths of the entire consideration with which the properties listed in Exhibit "A" were acquired, except as to property listed as Item 5, originally belonged to Louise Heidt Seeley, the surviving joint tenant, and as to property listed as Item 5, determine that all the consideration paid for said property, originally belonged to Louise Heidt Seeley, and (2) that by reason of said ownership, find the Respondent erred in his determination of deficiency estate tax liability.

CLAUDE I. PARKER,
RALPH W. SMITH,
Counsel for Petitioner.

Of Counsel:

L. A. LUCE,
937 Munsey Building,
Washington, D. C.

State of California,

County of Los Angeles—ss.

Louise Heidt Seeley, of the City of Los Angeles, State and County aforesaid, being duly sworn deposes and says that she is the duly appointed, qualified and acting executrix of the estate of Joseph H. Heidt, deceased, and is the Petitioner in the foregoing Petition; that she is familiar with the facts stated therein and that the facts so stated are true and correct, except such facts as are stated upon information and belief, and those facts she believes to be true.

/s/ LOUISE HEIDT SEELEY,
Petitioner.

Subscribed and sworn to before me this 9th day of August, 1944.

[Seal] /s/ DAVID D. SALLEE,
Notary Public in and for the County of Los Angeles, State of California.

EXHIBIT A

[Letterhead Treasury Department]

Office of Internal Revenue Agent In Charge Los
Angeles Division. LA:ET:90D:NAB May 19.
1944.

Estate of Joseph H. Heidt, Deceased
Mrs. Louise Seeley, Executrix
745 South Dunsmuir Avenue
Los Angeles, California

Dear Mrs. Seeley:

You are advised that the determination of the estate tax liability of the above named estate discloses a deficiency of \$16,435.01, as shown in the statement attached.

In accordance with the provisions of existing internal revenue laws, notice is hereby given of the deficiency or deficiencies mentioned.

Within 90 days (not counting Sunday or a legal holiday in the District of Columbia as the 90th day) from the date of the mailing of this letter, you may file a petition with the Tax Court of the United States, at its principal address, Washington, D. C., for a redetermination of the deficiency or deficiencies.

Should you not desire to file a petition, you are requested to execute the enclosed form and forward it to the Internal Revenue Agent In Charge, Los Angeles, California, for the attention of LA:Conf. The signing and filing of this form will expedite the

closing of your return by permitting an early assessment of the deficiency or deficiencies, and will prevent the accumulation of interest, since the interest period terminates 30 days after filing the form, or on the date assessment is made, whichever is earlier.

Very truly yours,

JOSEPH D. NUNAN, JR.

Commissioner,

By /s/ GEORGE D. MARTIN,

Internal Revenue Agent In
Charge.

Enclosures:

Statement

Form of waiver [8]

LA:ET:90D:NAB. District of Sixth California.

Estate of Joseph H. Heidt. Date of death:
November 22, 1942

STATEMENT

	Liability	Assessed	Deficiency
Estate Tax	\$16,852.06	\$417.05	\$16,435.01

In making this determination of the Federal estate tax liability of the above named estate, careful consideration has been given to the report of examination dated January 10, 1944.

ADJUSTMENTS TO NET ESTATE

Net estate for basic tax as disclosed by return.....	\$ (31,184.99)	
Additions to value of net estate and decreases in deductions:		
Jointly owned property	\$76,942.35	
Miscellaneous administration expenses	500.00	77,442.35
		<hr/>
Net estate for basic tax as adjusted.....		\$ 46,257.36
Net estate for additional tax as adjusted		\$ 86,257.36

EXPLANATION OF CHANGES

Jointly owned property	Returned	Determined
Item 1	\$15,000.00	\$ 30,000.00
Item 2	27,500.00	55,000.00
Item 3	9,000.00	18,000.00
	<hr/>	<hr/>
Forwarded	\$51,500.00	\$103,000.00
	Returned	Determined
Brought forward	\$51,500.00	\$103,000.00
Item 4	5,500.00	11,000.00
Item 5	0.00	7,262.05
Item 6	10,975.58	21,951.37
Item 7	704.51	1,409.02
Item 8	1,000.00	2,000.00
	<hr/>	<hr/>
Total	\$69,680.09	\$146,622.44
Difference		\$ 76,942.35

The whole value of each of the above-described items are included in the gross estate under the provisions of Section 811(e) of the Internal Revenue Code as amended by Section 402(b) of the Revenue Act of 1942.

Miscellaneous administration expenses

Item (A)	\$ 250.00	\$ 0.00
Item (B)	250.00	0.00
Difference		500.00

Item (A) is disallowed, inasmuch as legal services in connection with the termination of joint tenancy are not properly deductible under the provisions of section 81.32 of Regulations 105.

Item (B) is disallowed, as it has not been shown whether this fee has been or will be paid.

COMPUTATION OF ESTATE TAX

	Returned	Determined
Gross estate for basic tax..	\$ 69,680.09	\$146,622.44
Deductions	100,865.08	100,365.08
Net estate for basic tax.....	\$ 31,184.99	\$ 46,257.36
Net estate for additional tax	\$ 8,815.01	\$ 86,257.36
Gross basic tax		\$ 462.57
Credit for estate and inheritance tax		0.00
Net basic tax		\$ 462.57
Total gross taxes (basic and additional)		\$ 16,852.06
Gross basic tax		462.57
Net additional tax		16,389.49
Total net basic and additional taxes.....		\$16,852.06
Total tax payable		\$16,852.06
Estate tax assessed:		
Original, list August 1943; P. 103, L. 6.....		417.05
Deficiency		\$16,435.01

Upon receipt of a waiver, or upon the expiration of 90 days from the date of this letter, if a petition is not filed with The Tax Court of the United States, \$16,064.95 of the deficiency will be assessed.

As the balance of the deficiency may be eliminated by credit for State estate, inheritance, legacy, or succession taxes, opportunity will be accorded for the submission of the evidence required by section 81.9 of Regulations 105. If after a reasonable time the evidence is not filed, the balance of the deficiency will be assessed. Please advise when the credit evidence may be expected.

Filed August 14, 1944. [12]

[Title of Tax Court and Cause.]

ANSWER

The Commissioner of Internal Revenue, by his attorney, J. P. Wenchel, Chief Counsel, Bureau of Internal Revenue, for answer to the petition of the above-named taxpayer, admits and denies as follows:

- 1 and 2. Admits the allegations contained in paragraphs 1 and 2 of the petition.
3. Admits that the tax in controversy is estate tax; denies the remainder of the allegations contained in paragraph 3 of the petition.

4. Denies the allegations of error contained in paragraph 4 of the petition.
5. Denies the allegations contained in subparagraphs (a) to (f), inclusive, of paragraph 5 of the petition.
6. Denies each and every allegation contained in the petition not hereinbefore specifically admitted or denied. [13]

Wherefore, it is prayed that the determination of the Commssioner be approved.

/s/ J. P. WENCHEL, ECC,
Chief Counsel,
Bureau of Internal
Revenue.

Of Counsel:

B. H. NEBLETT,
Division Counsel.

EARL C. CROUTER,

B. M. COON,
Special Attorneys,
Bureau of Internal Revenue.

BMC/mm/9/9/44.

Received and filed Sept. 21, 1944.

[Title of Tax Court and Cause.]

FINDINGS OF FACT AND OPINION

Promulgated May 6, 1947

Decedent and his spouse, residing in a community property state, held property as joint tenants at the time of the decedent's death. The entire value of such joint property is includable in the gross estate of the decedent, except such proportion thereof as may be shown to have originally belonged to the surviving spouse or acquired by the surviving spouse for a full and adequate consideration in money or money's worth.

Where a portion of the consideration for such jointly held property was furnished by the surviving spouse from funds in which her personal earnings and separate property have been comingled with community property and there is no evidence as to what portion of the consideration furnished represented compensation for personal services of her separate property, no proportion has been shown to have originally belonged to the surviving spouse or to have been acquired by her for a full and adequate consideration in money or money's worth within the intendment of the statute.

Ralph W. Smith, Esq., and John Moore Robinson, Esq., for the petitioner.

H. A. Melville, Esq., for the respondent. [15]

This case involves a deficiency in Federal estate tax determined by the respondent in the amount of \$16,435.01. The case was submitted on documentary evidence and oral testimony.

The question presented is whether decedent's wife, as surviving joint tenant with decedent, in a community property state, made any contributions to the property jointly owned at the time of decedent's death, which contributions should be excluded from the gross estate of the decedent under Section 811 of the Internal Revenue Code as amended by the Revenue Act of 1942.

Findings of Fact

The petitioner, Louise Seeley (formerly Louise Heidt), is the duly appointed and qualified executrix of the estate of Joseph H. Heidt, who died November 22, 1942, at the age of 99 years and 11 days. At the time of his death the decedent was a resident of North Ridge, California. The Federal estate tax return, form 706, was filed June 14, 1943, with the collector of internal revenue for the sixth district of California by his widow, who had remarried and was then Mrs. Louise Seeley, as surviving joint tenant.

The decedent, Joseph H. Heidt, and Louise Weise were married in 1893, at which time he was about 50 years of age and she was 18 years of age. At all times subsequent to their marriage they resided in the State of California until the decedent's death.

At the time of their marriage the decedent owned no real estate or personal property, other than his personal effects, and after his marriage he did not acquire any property by gift, devise or inheritance except about \$1,000 which his wife gave him to start in business.

The decedent, with the \$1,000 given him by his wife, started in the business of dealer in produce. He started in a store at the Angel's Flight and then opened a small stall in Central Street Market. He specialized in potatoes [16] and onions and became known as the "Potato King." He leased ground to plant potatoes and onions in California and Idaho. His business was successful and he made a great deal of money, but due to market fluctuations he went broke three times during his business career, but never went into bankruptcy. His business was speculative and he sometimes bought property and had the title put in the joint names of himself and his wife. Their bank accounts were also kept in their joint names. On several occasions he told his wife that if anything happened to him he wanted everything to go to her. It was also understood that if anything happened to her everything would go to him. Decedent continued in business until 1934 when he retired at the age of 91.

During their entire married life decedent supported his wife and paid all of their living expenses from his earnings.

The decedent was never engaged in the real estate business.

Shortly after her marriage decedent's wife engaged in the real estate business and was very successful. She bought and sold real estate, built houses and apartment houses and hotels and furnished, managed and operated them. A part of the time she had a real estate license, but most of the time she did not. She had about \$1,500 when

she was married. A part of this, approximately \$1,000, she gave to her husband to start in the marketing business. About two months after her marriage her parents gave her, as a wedding present, a deed to a house and lot in Colton, California. This Colton house was traded for a store at Angel's Flight on South Broadway, Los Angeles. This property was sold and with a part of the proceeds she bought a lot in Boyles Heights upon which she built a four room cottage. In the construction of the cottage she received a gift from her father of \$400 and \$800 from her mother. She subsequently sold the Boyles Heights property and bought a house on Washington Street. This property was sold and petitioner bought a place on Ruth Avenue, on which was [17] located an old house. She moved the house and built Boyle Apartments. She furnished the apartment house (12 apartments) and operated it for about four years, then sold the furniture and leased the building. Decedent's wife continued her real estate operations during her marriage with decedent.

At the death of the decedent there were 8 items of property held jointly by the decedent and his surviving spouse. These 8 items were reported under Schedule E of the estate tax return and, with the exception of item 5 (which was excluded with the notation that "Decedent furnished nothing towards the acquisition of this item"), were included in the gross estate at one-half their value, decedent claiming one-half interest therein. The following facts concerning these items appear in the record.

One

This property, known as North Ridge Ranch, was bought by the decedent for approximately \$28,000 and held in joint tenancy by decedent. The down payment on the property was made with money which he borrowed from a friend. Decedent's wife then sold property, which she had acquired in Palm Springs, for \$9,000 and gave the money to the decedent to pay back the borrowed purchase money. The Palm Springs property which stood in her name originally consisted of a house and two lots which cost about \$4,500. Decedent's wife bought it with cash accumulated from different properties which had been sold and built two houses on the lots. The North Ridge Property was sold after decedent's death for \$30,000.

Two

This property, held in joint tenancy by decedent and his wife, consisted of two apartment houses located at Dunsmere and Eighth Streets in Los Angeles, California. It was acquired by the decedent for cash (derived from profits from different trades made by the decedent and his wife) about 10 or 12 years before the decedent died. It was sold after decedent's death for \$55,000. [18]

Three

This property, held in joint tenancy by decedent and his wife, consisted of two houses, one five-room and the other four room, on Sunset Place (or Sunset Park) acquired about 15 years before de-

cedent's death. The decedent paid \$12,000 to \$14,000 for one property and decedent's wife paid about \$15,000 for the other with money acquired by working and accumulated from real estate transactions. The Property was sold after the decedent's death for \$18,000.

Four

This property, which was used by the decedent and his wife as a home for a time, is located on El Camino in Beverly Hills. It was acquired by the decedent who took a mortgage on the property as security for a loan. The property was held by decedent and his wife as joint tenants.

Five

This property was located on Ruth Avenue and known as the Elmo Hotel. It was built by decedent, and first rented, then sold, by the decedent to a Japanese who gave a joint promissory note to decedent and his wife secured by a deed of trust. Decedent's widow did not know the number of rooms or what its cost was.

Six

The property involved in this item consisted of a joint bank account in The Bank of America in the amount of \$21,951.37, some of which was deposited by decedent and some by his wife. At the time of decedent's death approximately \$10,000 of the amount in the joint account had been deposited by decedent's wife. The money so deposited came

from rents from different buildings and apartments. Decedent's wife deposited all the funds from the business transactions which she made in this joint account. [19]

Seven

The property involved in this item was \$1,409.02 deposited in the California Bank, 9941 Wilshire Boulevard, Beverly Hills, to the joint account of decedent and his wife. The money was deposited by the decedent and came from the sale of different properties which had been accumulated.

Eight

The property involved in this item consisted of 20 United States defense bonds of a par value of \$2,000 which had been purchased by the decedent with his own funds. They were put in the joint names of the decedent and his wife.

In computing the deficiency here in question the respondent included in the gross estate the full value of all eight items of jointly owned property set out above.

In addition to the jointly owned property which was reported in the estate tax return, the surviving spouse (decedent's wife) owned considerable property, both real and personal, which stood in her own name and was not included in the estate tax return.

Opinion

Harlan, Judge: The respondent contends that the petitioner has failed to prove that any amount was contributed by the surviving spouse to the 8 items of jointly held property set out in our findings of fact and, therefore, having failed to meet her statutory burden of proof, the entire [20] value of such properties at the time of decedent's death must be included in the gross estate under section 811 (e) of the Internal Revenue Code, as amended, by section 402 of the Revenue Act of 1942.¹

¹Sec. 811. Gross Estate.

The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated, except real property situated outside of the United States.

* * * * *

(e) Joint and Community Interests.

(1) Joint interest—To the extent of the interest therein held as joint tenants by the decedent and any other person, or as tenants by the entirety by the decedent and spouse, or deposited, with any person carrying on the banking business, in their joint names and payable to either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and never to have been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or money's worth: Provided, That where such property or any part thereof, or part of the consideration with which such property was acquired, is shown to have been at any time acquired by such other person from the decedent for less than an adequate

The petitioner contends that the surviving spouse contributed to the acquisition of the jointly held properties certain funds that were acquired as the result of her personal services and the investment and reinvestment of her separate property. She especially contends that the surviving spouse furnished all the consideration for Item 1, the North Ridge Ranch and Item 5, the joint note from the Japanese, and, therefore, the value of these items

and full consideration in money or money's worth, there shall be excepted only such part of the value of such property as is proportionate to the consideration furnished by such other person: Provided further, That where any property has been acquired by gift, bequest, devise, or inheritance, as a tenancy, by the entirety by the decedent and spouse, then to the extent of one-half of the value thereof, or, where so acquired by the decedent and any other person as joint tenants and their interests are not otherwise specified or fixed by law, then to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint tenants.

(2) Community interests—To the extent of the interest therein held as community property by the decedent and surviving spouse under the law of any State, Territory, or possession of the United States, or any foreign country, except such part thereof as may be shown to have been received as compensation for personal services actually rendered by the surviving spouse or derived originally from such compensation or from separate property of the surviving spouse. In no case shall such interest included in the gross estate of the decedent be less than the value of such part of the community property as was subject to the decedent's power of testamentary disposition.

should be excluded from the gross estate of the decedent in their entirety. As to the remaining items in dispute the petitioner contends they were acquired either from the separate property of the surviving spouse or from the community property derived or acquired through the personal efforts of the surviving spouse and, therefore, at least one-half thereof should be excluded from the gross estate since not to exceed one-half was subject to the testamentary disposition of the decedent.

The merit of these contentions cannot be accurately appraised without some inquiry as to the nature of the consideration furnished by either spouse for their respective interests in the jointly held property.

The question resolves itself into one of fact and the evidence before us is, in the most part, very unsatisfactory. This situation is due primarily to the fact that the principal witness was somewhat advanced in years and the transactions involved covered a period of almost fifty years, a situation that would tax the memory of any witness. In our findings we have included the facts that appear from the record as a whole. Apparent inconsistent statements have been resolved in the light of the whole record and all the surrounding circumstances.

In determining whether the petitioner has met her burden of proof we must keep in mind the requirements of the statute under which the question here [22] arises. Section 811 (e) (1), I. R. C., as amended by the 1942 Act, requires that there shall

be included in the gross estate for estate tax purposes the entire value of property held by the decedent and any other person as joint tenants, except such part thereof "as may be shown" to have originally belonged to such other person or acquired from the decedent for an adequate and full consideration in money or money's worth.

In 1942 Congress adopted the amendment to Section 811 of the Internal Revenue Code, section 811 (e) (2), designed to eliminate what was believed to be an unequal distribution of the tax burdens of estate taxes and to apply to community property the principles of estate taxes which had already been applied to other forms of joint ownership on the death of either of the joint owners. See *Fernandez vs. Weiner*, 326 U. S. 340, 350. The amendment included in the gross estate all of the interest held as community property by decedent and the surviving spouse, "except such part thereof as may be shown to have been received as compensation for personal services actually rendered by the surviving spouse or derived originally from such compensation or from separate property of the surviving spouse." Obviously, under the amendment property "excepted" as compensation for personal services actually rendered, or acquired by such compensation is treated as having been received or acquired for "an adequate and full consideration in money or money's worth," as used in Section 811 (e) (1), applicable to joint tenancies.

The decedent and his wife were married in California and resided there until his death. Under the laws of that state, sections 162 and 163 Civil Code of California, 1941 Edition, all property of either spouse owned before marriage and that acquired thereafter by gift, bequest, devise or descent, with [23] the rents, issues and profits thereof, is his or her separate property and all other property acquired after marriage by either spouse while domiciled in the state is community property with certain limitations not material here, section 164, C. C. C. Under the laws of that state, section 161 C. C. C., a husband and wife may also hold property as joint tenants, and such property may consist of community property transferred to themselves when expressly declared in the transfer to be a joint tenancy.

It is obvious, therefore, that where a husband and wife, in the state of California, acquire property as joint tenants the consideration paid therefor may consist of community property (which may include compensation for personal services), the separate property of either or both spouses, or part community property and part separate property.

The applicable regulations are: Regulation 105, Section 81.22 as amended by T. D. 5239 C. B. 1943, p. 1085, but Cf. the rule previously applicable as briefly stated in *Estate of Paul M. Vandenhoeck*, 4 T. C. 125. Section 81.22, as amended, of the above Regulations provides in part, as follows:

For the purpose of determining the taxable portion in accordance with the above rules in the gross estate of decedent who died after October 21, 1942, where the joint tenancy or tenancy by the entirety was created by the transfer of property held as community property by such decedent and his spouse such decedent is considered as the original owner of all of the community property so transferred, except such part thereof as may be shown to have been received as compensation for personal services rendered by his spouse or derived originally from such compensation or from such separate property of such spouse. Thus, if in the case of a decedent who died after October 21, 1942, property held as community property by such decedent and his spouse was transferred to themselves as joint tenants or as tenants by the entirety, the entire value of such property at the time of decedent's death is includable in his gross estate with the exception stated in the preceding sentence. With respect to the meaning of property derived originally from such compensation or from separate property of the spouse and to the identification required, see section 81.23. [24]

The purpose of the foregoing amendment to Section 81.22 of Regulation 105 was to bring it in harmony with Section 81.23 relating to the inclusion in decedent's estate of community property owned at the time of his death as provided in Section 811

(e) (2), I. R. C., enacted in the Revenue Act of 1942. The regulation above set out is thus attempting to correlate the rules governing property held jointly or by the entirety with the "Federal Tax Law" of community ownership. For example, if community property is attributable solely to the earnings or separate property of the husband, who predeceases his spouse the entire property is now includable in his gross estate. The regulations add that if the spouses transform their community ownership into a joint tenancy, the entire property is also taxed as part of the husband's estate.

In other words, the wife's former interest in the community property is not regarded as property originally belonging to her. Decedent died November 22, 1942. Therefore Section 81.22, Regulation 105 as amended, quoted above is applicable to this proceeding. So far as we can see it is a reasonable regulation and we shall therefore endeavor to apply it to the facts as detailed in our findings of fact. It is obviously necessary that the taxpayer identify the proportion of joint property which he seeks to exclude from the [25] gross estate as derived originally from "compensation for personal services actually performed" or from "separate property" if the intendment of the statute is to be carried out.

It is, therefore, incumbent on petitioner to show that the portion of the consideration furnished by the surviving spouse for the joint property which she seeks to exclude from decedent's gross estate was derived from compensation for personal serv-

ices actually rendered by the surviving spouse or from her separate property in order to bring the claimed exclusion within the statute.

The record shows that the decedent owned no property at the time of his marriage, and that he acquired no property thereafter by gift, devise or inheritance. It is presumed, therefore, that all of the property he acquired during marriage was community property. The decedent's wife on the other hand had about \$1,500 when she was married and received thereafter, as a wedding present from her parents, the house in Colton, and, somewhat later, gifts aggregating \$1,200. This was her separate property. Of the \$1,500, \$1,000 was advanced to her husband, the decedent, to start in business, and the balance of her separate property was used for household decorations and to acquire real estate. Thereafter by trading, buying, building and renting real property and by investing accumulated profits, decedent's wife acquired considerable property, some of which was carried in her own name and some of which was in the joint names of herself and the decedent, but all of it so commingled that it is impossible from the evidence to trace either her separate property or that acquired by personal services. [26]

It is true that as to items 1, 3 and 6, we have found that decedent's wife made contributions in the respective amounts of \$9,000, \$15,000 and \$10,000. It may be that if we were concerned only with a joint tenancy in a non-community property state the evidence before us would be sufficient to meet petitioner's burden of proof as to these items. Cf.

Richardson vs. Helvering, 80 Fed. (2d) 548, and see Berkowitz vs. Commissioner, 108 Fed. (2d) 319. In the latter case the Court held that it was the ownership of profits that was the controlling question and that there was an agreement to share profits. In the instant case the profits from the efforts of both decedent and his wife were the community property of both. Only a portion of it, i. e., the part that is shown to be derived from personal services actually rendered, is to be considered to represent "money or money's worth" within the meaning of section 811 (e) (1).

As to item 1, the record shows that the \$9,000 which the surviving spouse contributed to the purchase of the North Ridge Ranch was the price received for the Palm Springs property. But the Palm Springs property had been bought with cash accumulated from profits from the sale of different properties, some of which had apparently been held by the decedent and some by the surviving spouse. There is no evidence that any part of such consideration was derived from compensation for personal services actually rendered by the surviving spouse or from her separate property. The same situation existed as to item 3, except it appears that some part of the purchase price represented personal services. The surviving spouse testified that the money was accumulated from real estate transactions "and I worked." But there is no evidence as to what part of the \$15,000 which she paid for one of the properties represented [27] compensation

for personal services and what part represented accumulations from real estate transactions. Item 6 was a joint bank account in the amount of \$21,-951.37. The surviving spouse testified that she had approximately \$10,000 of her own funds deposited in this account. But here against there is no evidence that any part of such funds represented compensation for personal services actually rendered or the separate property of the surviving spouse. The surviving spouse testified that it came from rents and represented accumulated profits from business transactions which would be community property includible in the gross estate, *Fernandez vs. Wiener*, *supra*, unless shown to come within the statutory exception. As to items 1, 3 and 6, petitioner has not shown that she is entitled to the exception claimed under section 811 (e) (1) of the Internal Revenue Code. To allow an exception from the gross estate under section 811 (e) (1) of community property includible therein under 811 (e) (2) would open up a field of tax evasion which, in our judgment, would defeat the very purpose of section 811 (e) (2).

As to Items 2, 4, 5, 7 and 8 the petitioner has not clearly shown that the surviving spouse furnished any of the consideration for the property involved. Certainly there is no direct evidence that it was purchased, either in whole or in part by her separate property or her personal earnings. Much of the evidence is vague and uncertain but there is evidence that all of these items were purchased or acquired

by the decedent and put in the joint names of himself and wife in order that the property would, upon the death of either, go to the survivor.

It is true that decedent's wife performed services in connection with the transactions in real estate which she carried on and that she invested, shortly after her marriage, separate property of the approximate value of \$1,200, but it is also true that at the time of the decedent's death she owned and carried in her name considerable property, both real and personal, which was [28] not included in the estate tax return. Whether or not this property represented her personal services or the original investment of her separate property does not appear. There is, however, no evidence in the record that she received any property by gift, devise or descent after the house and \$1,200 given her by her parents about the time of her marriage, as set out in our findings above, and there is no evidence of the value of the property which she held in her name at the time of decedent's death.

Upon the whole record we find that the petitioner has failed to show that any part of the value of the eight items of jointly held property in question should be excluded from the gross estate of the decedent on account of consideration furnished by the surviving spouse. The determination of the respondent is therefore approved.

Reviewed by the Court.

Decision will be entered for the respondent.

[Seal] [29]

Murdock, J., dissenting: A portion of the value of items one, three, and six should be excluded from the decedent's gross estate because the findings show that parts of those jointly held properties originally belonged to the surviving spouse as a result of her personal efforts and had not been received or acquired by her from the decedent. There has been no failure of proof as to those parts and an allocation could easily be made. Cf. *Cohen vs. Commissioner*, 39 Fed. (2d) 540.

Van Fossan and Leech, JJ., agree with this dissent.

[Seal] [30]

The Tax Court of the United States

Docket No. 5802

ESTATE OF JOSEPH H. HEIDT, Deceased,
LOUISE SEELEY, Executrix,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

DECISION

Pursuant to the determination of the Court, as set forth in its Findings of Fact and Opinion, promulgated May 6, 1947, it is

Ordered and Decided: That there is a deficiency in estate tax of \$16,435.01.

/s/ BRYON B. HARLAN,
Judge.

[Seal]

Entered May 6, 1947. [31]

Before the Tax Court of the United States

Docket No. 5802

In the Matter of ESTATE OF JOSEPH H.
HEIDT, Deceased,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Room 229, United States Post Office, Spring, Tem-
ple and Main Streets, Los Angeles, California,
June 21, 1946, 11:00 A.M.

Before: Honorable Eugene Black, Judge.

Appearances:

John Moore Robinson, Esq., 650 South Spring
Street, Los Angeles, California, and Ralph W.
Smith, Esq., and Oliver O. Clark, Esq., 403 West
Eighth Street, Los Angeles, California, appearing
on behalf of Estate of Joseph H. Heidt, Deceased,
Petitioner.

H. A. Melville, Esq., (Honorable J. P. Wenchel,
Chief Counsel, Bureau of Internal Revenue), ap-
pearing on behalf of the Commissioner of Internal
Revenue, Respondent.

PROCEEDINGS

The Clerk: 5802, Estate of Joseph H. Heidt,
deceased.

The Court: You may note your appearances.

Mr. Robinson: Ralph W. Smith, Oliver O. Clark
and John Moore Robinson for Petitioner.

Mr. Melville: H. A. Melville for the Respondent.

The Court: Does the attorney for the Petitioner desire to make an opening statement of the issues in the case?

Mr. Clark: Yes, if your Honor please, and prior to making one, just so that it will be before the Court may I offer in evidence the Federal Estate Tax form 706. I understand that the Government has it.

The Court: Very well. It will be received in evidence as Petitioner's Exhibit No. 1.

Mr. Melville: Your Honor, may I at this point call to your attention that at the conclusion of the decision in this case Petitioner is not to get back this original return which the Federal Government has, so let it be marked if your Honor please as Respondent's Exhibit A or Exhibit 1.

The Court: Very well.

Mr. Robinson: We will stipulate that may be returned to the Respondent.

The Court: Joint Exhibit A-1. Do you want to substitute a photostate for it? [35]

Mr. Melville: Well, I have a duplicate of that which I can use in briefing. Yes, your Honor, we will substitute a photostatic copy.

The Court: Very well. Permission is granted to substitute a photostat copy and it is received as Joint Exhibit A-1.

(The tax form referred to was marked and received in evidence as Joint Exhibit A-1.)

(Testimony of Louise Seeley.)

Mr. Melville: Are you now changing your testimony that you were married in 1892?

The Witness: Well, when that was transferred to me.

Mr. Melville: Don't you know when you were married?

The Witness: I just don't quite remember at the present time.

Q. (By Mr. Clark): I see the date here, Mrs. Seeley, showing that it was recorded August 11, 1893, and I will ask you if that is the deed—— [42]

A. Yes, that is the deed.

Q. ——which was given to you——

A. Yes.

Q. ——by your father and mother?

A. It was given to me right after I was married to Mr. Heidt.

Q. As a wedding gift?

A. As a wedding gift, yes, my wedding present.

Q. It was right after you were married to Mr. Heidt, about how long after you were married to him?

A. About two months.

Mr. Clark: We offer this in evidence as the Petitioner's exhibit, in evidence, as Petitioner's Exhibit No. 2.

Mr. Melville: No objection providing I may have a copy of it, your Honor.

The Court: Can you furnish a copy?

Mr. Clark: Yes, we will furnish them with a photostat copy.

(Testimony of Louise Seeley.)

The Court: Very well. Permission is given to substitute a photostat for Petitioner's Exhibit No. 2.

(The deed referred to was marked and received in evidence as Petitioner's Exhibit No. 2.)

Q. (By Mr. Clark): At the time when were married to Joseph H. Heidt, [43] did you have any cash?

A. Yes, I did.

Q. About how much?

A. About \$1500.00 or something on that order.

Q. Where did you obtain that money?

A. Well, my dad gave it to me and I worked before I was married, had charge of hotels and restaurants.

Q. And you had saved it?

A. I saved it.

Q. Did Joseph H. Heidt have any money at the time you married him?

A. Nothing, no sir.

Q. Did he have any real or personal property other than his purely personal effects like wearing apparel?

A. No, sir.

Q. You don't know?

A. No, sir, he didn't have any.

Q. During the lifetime of Joseph H. Heidt after your marriage to him did he acquire any property, real or personal, by inheritance?

A. None at all.

Q. Did anyone give to him any property either real or personal after your marriage and before his death?

A. No, they didn't.

(Testimony of Louise Seeley.)

Q. Did you after the marriage of yourself and Joseph H. Heidt [44] engage in any business?

A. I had my own business, he had his business.

Q. What business did you engage in?

A. I had apartments and started apartments in Los Angeles and redecorated, fully redecorated, and took charge of them, took care of them, was manager and had different buildings, worked with very many properties, different buildings in town.

Q. And did you for a time hold a license as a real estate agent in this city? A. Yes, I did.

Q. For how long a time?

A. Not so very long

Q. Well, can you approximate it?

A. About four or five years.

Q. During that time did you buy and sell property? A. Yes, I did.

Q. What business did Mr. Heidt engage in?

A. Well, he was in the market, 3rd and Central Market, he opened a market. He was the first market in Los Angeles.

Q. Was he dealing in vegetables?

A. Just potatoes.

Q. Just potatoes?

A. Potatoes and onions, plantations of potatoes and onions. [45]

Q. Potatoes and onions, you say? A. Yes.

Q. About when with reference to the time that you and he were married did he begin that business?

A. Well, right shortly afterwards.

(Testimony of Louise Seeley.)

Q. Well, by shortly, you mean about how long afterwards?

A. Well, he started right just about four months after we were married.

Q. And he continued in it up until what time?

A. Until about eight years before he passed away.

Q. And he died in what year? A. 1942.

Q. You say he continued in that business up until about eight years before he died?

A. Before he passed away, yes.

Q. During the eight years before he died, did he engage in any other business? A. No.

Q. Did he at any time fail while he was engaged in the business? A. Yes, sir.

Q. Twice? A. Yes.

Q. Do you remember about when those occurred?

A. Well, I could remember. All this money is lost. [46] I just couldn't remember the times.

Q. Did you and Mr Heidt have an attorney representing you in your business matters during that period of time?

A. Yes, Mr. Bull. Mr. Bull was our attorney for years.

Q. Ingall W. Bull?

A. Ingall W. Bull.

Q. Who is now a Superior Court Judge in this county? A. Yes.

Q. Will you state to the Court what you did with this money that you had when you were married to Mr. Heidt and the real property which your

(Testimony of Louise Seeley.)

father and mother gave to you as shown by the deed in evidence?

A. Well, the money that I had, the property that I had that my folks gave to me I traded the Colton house for a store, Angel's Flight, South Broadway, then I started in business with the money that I had saved.

Q. What business did you start in?

A. I gave him money to start his business in there.

Q. You gave Mr. Heidt money to start his business? A. Yes.

Q. And he used it for that purpose?

A. Yes.

Q. You say you traded that home place they gave to you for the property on Broadway? [47]

A. Right on South Broadway.

Q. Was that over right by the Angel's Flight there?

A. Yes, right at the foot of the Angel's Flight.

Q. Was it income property?

A. Yes, a regular store.

Q. What did you do with that property?

A. Well, I sold it, then went out to Boyle Heights, it was then, and I bought a lot.

Q. At the time you sold it? A. Yes.

Q. Do you remember how long you kept it?

A. I had it about six or seven months.

Q. During that time did you receive some income from it? A. No.

(Testimony of Louise Seeley.)

Q. From the store?

A. No, not very much, no.

Q. Then you did what with that property?

A. Then I sold it and I bought a lot in Boyle Heights and I built a home on there, a little four-room cottage.

Q. Do you remember about how much you got for the property when you sold it?

A. It wasn't very much. I think about a couple of thousand dollars.

Q. All right. How much did you invest in the lot and the building of the home in Boyle Heights?

A. Well, the lot I paid \$300.00 for the lot, that is in Boyle Heights.

Q. How much did you spend for the improvement of it with the home?

A. Well, we built a four-room cottage on it.

Q. Do you remember about how much it cost?

A. Well, I couldn't tell you, because I don't know about the cost of that little house.

Q. What moneys did you use in buying that lot and building that home?

A. Well, I had some saved up and my mother gave me some to help us along.

Q. Your mother gave you money? That is, after you were married? A. Yes.

Q. About how much money did she give to you?

A. She gave me 400 and my dad gave me 800 to pay for the place.

Q. That was built for your home place in Boyle Heights, that building? A. Yes.

(Testimony of Louise Seeley.)

Q. What did you do then with the property?

A. Well, then I sold it and bought one on Washington Street, a place on Washington Street. [49]

Q. The home place? A. Yes.

Q. Do you remember what you paid for that?

A. That was \$2000.00.

Q. \$2000.00? A. Yes.

Q. What moneys did you use to pay for that place?

A. Well, I had been working in the meantime. I worked in hotels in the meantime.

Q. You say in the meantime you had been working in a hotel? A. Yes.

Q. What hotel?

A. In Redlands, took charge of the Theresa Valley Hotel.

Q. How long did you work there?

A. Oh, a couple of years.

Q. Did you get paid for it? A. Oh, yes.

Q. Did you use any of the money in buying the Washington place that you obtained from the sale of your Boyle Heights place? A. Yes, I did.

Q. Then what did you do with that place?

A. Well, I sold that place, and then I bought the lot, [50] the place on Ruth Avenue, and took the old house out and built the Boyle Apartments on. I was going to rent them, and I built and furnished it and I ran it for about four years, then I sold out the furniture with the leases and still have that.

(Testimony of Louise Seeley.)

Q. Now, you say you bought the lot and moved a house off of it and built the Boyle Apartments on Ruth Street in this city?

A. I took the old house place and just moved it and built the Boyle Apartments there.

Q. How large were those apartments?

A. 12 apartments.

Q. What moneys did you use in buying that lot and in building the Boyle apartments?

A. Well, just put in the money I had. I couldn't say exactly how much money I did use there, for I never kept track of that.

Q. Did you use moneys that you had obtained from the sale of the property on Washington Street?

Mr. Melville: I object to that, your Honor. The witness doesn't have to be led, and I ask that counsel refrain from leading the witness.

The Court: Yes, don't lead your witness.

Q. (By Mr. Clark): During that period, that is, while you were acquiring [51] and building the Boyle Apartments on Ruth Street, were you doing any other work?

A. No, I couldn't, because I took charge of the building.

Q. And you say you furnished it?

A. I furnished it.

Q. All of the apartments?

A. All of the apartments, yes.

Q. After it was completed and furnished, who operated it?

A. Well, I operated it.

(Testimony of Louise Seeley.)

Q. You didn't lease it out?

A. No, not at first. I ran it four years before I sold the furniture and leased it.

Q. You ran it four years?

A. Then I sold the furniture and leased the building.

Q. Do you remember how substantial an income you obtained from the operation of the apartments?

A. Well, it is easy to explain that. I will just give you the numbers of the apartments and the rooms, if you wish me to.

Q. Just generally, there is no need for so much detail.

A. Well, 12 rooms upstairs, and that would be about \$3.00 a week, then the apartments down stairs, about \$40.00 a month. There are four apartments downstairs. There was one [52] was my own I kept.

Q. What did you do finally with the Boyle Apartments?

A. Well, I built the Elmo Hotel then on Ruth Avenue between Eighth.

Q. What did you do with the Boyle Apartments?

A. Leased it.

Q. You leased it?

A. I sold the furniture and leased out the building.

Q. Then you say you acquired some other property? A. Yes.

Q. What property?

A. The Elmo Hotel on Ruth Avenue, same street only the next block.

(Testimony of Louise Seeley.)

Q. How large a building was that?

A. I think that was three stories, I think just rooms.

Q. Was that furnished or unfurnished?

A. I never ran that, just built it and rented it to a Japanese at the time.

Q. To a Japanese? A. Yes.

Q. How long did you keep that property?

A. Well, I think we still had it when Mr. Heidt passed away.

Q. You still had it, and is that one of the properties on which you held title jointly when Mr. Heidt died? [53] A. Yes.

Q. The Elmore Apartments?

A. No, not the Elmore Apartments, the Elmo Hotel. The Elmore is another place on Pico Street.

Q. I don't quite understand.

A. It's kind of hard to make you understand.

Q. This hotel, you say that you acquired on Ruth Avenue. A. Yes.

Q. Or Ruth Street, was it the Elmo Hotel?

A. Elmo Hotel.

Q. E-l-m-o? A. Yes.

Q. I was thinking of Elmore. And that property, you say, was retained until Mr. Heidt's death?

A. Yes.

Q. All right. What other property did you acquire?

A. Well, I had the Elmore Apartments on 39 South Hoover Street.

Q. 39? A. 1319 South Hoover.

(Testimony of Louise Seeley.)

Q. Do you remember about when it was that you acquired that property? A. Yes, I do.

Q. When was it? [54]

A. I bought a home at Lafayette Square, and then I traded the Lafayette Square property and gave \$9000.00 difference and I got the Elmore Apartments.

Q. Do you remember what the total price was that you paid in trade and in money for the Elmore Apartments?

A. Well, for the whole thing, close to 20,000.

Q. About \$20,000.00?

A. Yes, with the exchange deal and the furniture and everything for those apartments.

Q. I understood you to say about \$9000.00 of that price was paid in money. A. Yes.

Q. Where did you get the money?

A. I saved it up, kept on working and saved it and accumulated it that way.

Q. From the transactions you have been referring to?

A. From the different transactions, yes.

Q. How long did you keep the Elmore Apartments?

A. Well, I had the Elmore Apartments for about—sold 1938.

Q. You sold in 1938? A. Sold in 1938.

Q. During the time you had it, did you have an income from it? A. I ran it myself. [55]

Q. You ran it yourself? A. Yes.

(Testimony of Louise Seeley.)

Q. For how many years did you run it yourself?

A. I think some four or five years.

Q. That is the Elmore Apartments?

A. The Elmore Apartments.

Q. You say that after which you disposed of that property?

A. Yes.

Q. About when?

A. Well, that is closed to 1938, because I bought the ranch for that.

Q. What did you do with the money obtained from that?

A. I bought the ranch out at Chatsworth.

Q. Do you remember what you received for it?

A. No, I don't quite remember that.

Q. Approximately. [56]

The Court: What is this property you are inquiring about?

Mr. Clark: The Elmore property, your Honor, apartments.

The Witness: That is 1319 Hoover.

Mr. Melville: That was part of the estate, is that correct?

Mr. Clark: It was her property. They acquired that and disposed of it during the marriage. Mrs. Heidt got the proceeds from it. The proceeds of that property went into the Elmore, which is one of the properties that stood in their names as joint tenants when he died.

Mr. Melville: But that is the Elmore Apartments, isn't it which they had at the time of the death.

Mr. Clark: I will ask.

(Testimony of Louise Seeley.)

Q. How many acres of it was improved in lemon trees?

A. It was all improved with lemon trees.

Q. Do you know the name of that ranch? Did it have a name?

A. Stony Point Ranch.

Q. Stony Point Ranch?

A. Stony Point Ranch the name was.

Q. Do you remember about when that ranch was purchased?

A. Oh, somewhere around 1940, I think, 1938.

Q. Around about 1938, you think?

A. Yes.

Q. And do you remember about what was paid for it?

A. Well, I traded some lands for it. I traded the Rosemount tract that I had, the business, and paid a cash difference.

Q. Do you remember what the total price was, including the value of the lots and the cash?

A. There were seven lots that I think I traded in for some three hundred and some odd dollars apiece.

Q. That would make about \$2100.00 in lots? [60]

A. Yes.

Q. And how much in money did you pay for the Stony Ridge Ranch?

A. Well, about 20, some 20 some odd thousand dollars and that was added right on to it.

Q. How long did you keep that ranch?

A. A couple of years.

(Testimony of Louise Seeley.)

Q. A couple of years. And during that time did you do anything respecting its care?

A. I stayed in town most of the time. I was in the city taking care of the apartments.

Q. Then was the Stony Ridge Ranch sold?

A. Yes.

Q. And what did you get for that when you sold it?

A. I think about \$25,000.

Q. About \$25,000.00. Was that obtained in money or real property?

A. That was obtained in money.

Q. In cash?

A. Yes.

Q. All right. What other property did you buy?

A. Then I bought a place. Got another apartment building.

Q. Where was that?

A. That was over in Beverly Hills, a home in Beverly [61] Hills on El Camino.

Q. You say you bought a home on El Camino in Beverly Hills?

A. Yes.

Q. Do you remember what you paid for it?

A. No, I don't remember.

Q. Approximately even you don't recall?

A. No.

Q. How large a home was it?

A. Well, it was about eight rooms.

Q. About eight rooms. And did you live there for a time with Mr. Heidt?

A. Yes, for about a year.

Q. For about a year?

A. Yes.

(Testimony of Louise Seeley.)

Q. And then what did you do?

A. We bought another ranch in the Valley.

Q. In the San Fernando Valley?

A. Yes, I bought it as a present.

Q. You say you bought a ranch there?

A. Yes.

Q. How large a ranch?

A. About 12 acres of walnuts.

Q. Was it all planted to walnuts?

A. Yes. [62]

Q. Were they all bearing at the time you bought it?

A. Yes.

Q. Were there any buildings on the ranch when you bought it?

A. Yes, there were two houses on it.

Q. Two houses? A. Yes.

Q. Did that ranch have a name by which it was commonly referred to? A. No.

Q. How much was paid for that ranch?

A. I don't quite remember. I couldn't remember.

Q. Approximately, are you able to recall?

A. No, I can't say.

Q. Was that property in the name of yourself and your husband as joint tenants when he died?

A. Yes, I believe it was.

Q. How is that? A. Yes, I think it was.

Q. That is one of the properties involved here?

A. Yes.

Q. What moneys and properties did you use in your purchase of that ranch, the walnut ranch?

(Testimony of Louise Seeley.)

A. Well, just different things that we accumulated by trading, and such as I sold out buildings, I sold the [63] furniture and realized adequate income of it and that paid for both.

Q. Did you acquire any other properties?

A. Yes.

Q. What other properties?

A. Well, we had a place on Plymouth Boulevard, a bungalow.

Q. A bungalow on Plymouth Boulevard?

A. Yes.

Q. Do you remember how much was paid for it?

A. That was traded for a duplex. I traded the duplex on Camino Street for it.

Q. I don't quite understand. You say you had a duplex and traded the duplex for it?

A. No, we traded the duplex for this ranch at Encino.

Q. The ranch you are speaking of, is that the walnut ranch?

A. No, the Encino ranch, there is another ranch.

Q. We are speaking of the bungalow that you spoke of. You say that you purchased a bungalow?

A. Yes, on Plymouth Boulevard.

Q. And you kept it about how long?

A. A couple of years.

Q. And then did you dispose of it, did something with it? [64]

A. I sold it.

Q. Do you remember what you got for it?

A. I am not quite sure. I am not sure of it, but I think it was \$3500.00.

(Testimony of Louise Seeley.)

Q. A minute ago you spoke of another ranch, the Encino ranch. A. Yes, Encino.

Q. Where was that located?

A. It is right up in Encino. That was an orange grove.

Q. In the San Fernando Valley? A. Yes.

Q. Did you have title to that property at the time of his death?

A. Well, that has been sold, too.

Q. Before Mr. Heidt's death? A. Yes.

Q. About when did you buy the Encino ranch?

A. Well, the Encino was traded with this duplex on Catalina Street and extra.

Q. I don't understand.

A. It was traded for the duplex and the extra, if that is what you mean.

Q. I am asking you about what you paid for the Encino ranch. A. It was a trade. [65]

Q. You traded something for the ranch?

A. A duplex, on Catalina Street.

Q. I understand you traded the duplex for the Encino ranch. A. Yes.

Q. Do you remember what the stated purchase price in that deal was for the Encino ranch?

A. I don't know. I couldn't say. I think it was an even trade for the ranch and the duplex at that time.

Q. How many acres in that ranch?

A. Ten acres.

Q. Was it improved?

A. With an orange grove, orange grove and house.

(Testimony of Louise Seeley.)

Q. Orange trees in bearing? A. Yes.

Q. Did you say a house? A. Yes.

Q. What did you do with the Encino ranch?

A. Well, that was sold.

Q. Sold to whom?

A. Sold to some owner, I think, from the east, one of the stars.

Q. And do you remember what was obtained for it? A. I think about \$25,000.

Q. About \$25,000.00? [66]

A. Yes, I think so.

Q. Was it in money? A. Yes.

Q. What did you do with that money?

A. Well, I think we just kept on going, and all the money I traded I just kept right on turning over.

Q. Did you acquire any other properties during the period of your marriage with Mr. Heidt?

A. Yes, I had a house on 119 Pleasant Street.

Q. A house at 119 Pleasant Street?

A. 119 Pleasant Street.

Q. In this city?

A. Yes, in Boyle Heights. That is the first one.

Q. How large a house was that?

A. A four room cottage. I am sorry I can't give that number quite as it was, but I just can't think of those places.

Q. Do you remember any other properties that you dealt in during that period?

A. 2030 Griffith, built three houses on the property.

(Testimony of Louise Seeley.)

Q. Three houses at 23rd and Griffith that you say that you built? A. Yes, I built them.

Q. You built them? A. Yes.

Q. Who purchased the land? [67]

A. I bought the corner lot.

Q. And then you built?

A. And then I put the houses on it, and this was 20 years ago, I know that.

Q. Were they later sold?

A. I rented them and then I sold them afterwards.

Q. Now, are there any other properties you recall now that you dealt in during that period?

A. It's pretty hard to tell. They ought to have it all here. I can't hardly think of it. I didn't expect to have to keep track. You can't——

Q. During that period did you have any bank accounts in your name? A. Yes, I did.

Q. In what bank or banks?

A. The Bank of America.

Q. Which branch or office?

A. Well, I had Pico and Hoover, I think, for the Dunsmuir, and then I was in Washington Boulevard, with the Heidt Apartments, and then I had one in Redlands.

Q. You have named three branches of the Bank of America in which you carried an account.

A. Yes.

Q. And did you deposit moneys in those accounts that you obtained from transactions you made?

A. Yes, I did.

(Testimony of Louise Seeley.)

Q. (By Mr. Clark): Did you carry a bank account in any other bank than the three branch banks of the Bank of America?

A. Well, the California bank.

Q. In the California bank.

A. In Beverly Hills.

Q. During that period of time did Mr. Heidt carry any bank account of his own? [69]

A. Yes, he did for a while, then we had a joint accounts.

Q. Now, you mentioned a moment ago the Heidt Apartments.

A. Yes.

Q. You hadn't mentioned those earlier. Where were those located?

A. 1706 Santee Street.

Q. 1706 South Santee Street in this city?

A. Yes.

Q. About when, as you now recall, did you acquire those Heidt Apartments?

A. Well, that was built. That was the first apartment built in that neighborhood on Santee, 12 apartments.

Q. Did you build them?

A. Yes.

Q. You bought the lot?

A. This was 25 years ago, over 25 years ago.

Q. How large was that apartment?

A. 12 apartments.

Q. 12 apartments?

A. Yes.

Q. How long did you keep them?

A. Oh, several years. I just sold them recently.

Q. Did you have them on hand at the time of Mr. Heidt's death? [70]

A. Yes, I did.

(Testimony of Louise Seeley.)

Q. That is one of the properties involved here?

A. Yes.

Q. During the time that you held those apartments before the death of Mr. Heidt, was there a constant income from them? A. Yes.

Q. Who took care of the renting of them and the collecting of the income and managing and handling that property?

A. I ran the Heidt Apartments myself, I didn't have a manager, I took charge of the work, and then later on, of course, we sold them and he lost it and then we had to take it back, and then I put a manager in there.

Q. Now, when Mr. Heidt died, did you also have some apartments on Dunsmuir Avenue?

A. Yes.

Q. About how many?

A. On the corner of Dunsmuir and Eighth Street, and one at 7045 Dunsmuir.

Q. And those were properties that you held in joint tenancy at the time of Mr. Heidt's death?

A. Yes. Well, the one at 745 Dunsmuir he gave me for Christmas present.

Q. About when was that?

A. That was about ten years ago. [71]

Q. About ten years ago? A. Yes.

Q. Did you have a conversation with him at that time? A. Oh, yes.

Q. Where did the conversation take place?

A. Right in the place there. He wanted to know if I liked that building like that, and I said yes.

(Testimony of Louise Seeley.)

Q. Just a moment. At the time of that conversation, was anyone present besides you and Mr. Heidt?

A. Mr. Kenny and the owner of the property was there, the man that we bought the property from.

Q. What did Mr. Heidt say to you?

A. Mr. Heidt said right in front of him, "I gave my wife a Christmas present, everything I have got is hers, I want her to have everything, no matter what I have, if anything should happen to me."

Q. How large a house was that?

A. That is six apartments and a penthouse upstairs.

Q. Do you remember about what they were renting for at the time of his death?

A. Well, it is in the record that is right here, it is the same prices that it was then, because some of these tenants simply ruined the building.

Q. Did you occupy one of the apartments in that building? [72]

A. No, sir, because——

Q. Did you live in another apartment on Dunsmuir?

A. 8th Street and Dunsmuir, next door to it. It is the corner.

Q. You had that apartment at the time of Mr. Heidt's death? A. Yes.

Q. How many apartments in that building?

A. Seven.

(Testimony of Louise Seeley.)

Q. What were the rentals from that?

A. Well, 65 and 75 and 60, something like that, went down.

Q. How was that acquired, was it built?

A. No.

Q. It was not built, you bought that?

A. No, we bought that.

Q. About what year was that that those two apartments were acquired?

A. About 10 years.

Q. About 10 years ago? A. Yes.

Q. Now, that other apartment on Dunsmuir, as I understand it, was some of the property that was in joint tenancy at the time of Mr. Heidt's death?

A. Yes, the corner. [73]

Q. How? A. The corner, I think.

Q. Do you remember now of any other properties that you dealt in during your marriage to Mr. Heidt?

A. Well, of course, I have managed other properties besides my own, you know, took charge and furnished and decorated them and all this, although it was not my own property.

Q. You mean for other persons?

A. Yes, other people.

Q. Over how long a period of time did you do that type of work?

A. Well, about 10 or 12 years.

Q. 10 or 12 years. By that you earned some compensation? A. Yes.

(Testimony of Louise Seeley.)

Q. Well now, did you at one time have some property transaction with a Japanese?

A. Yes.

Q. And as I recall, in the joint tenancy property on hand at the time of the death of Mr. Heidt there was a trust deed which secured a note that was payable to yourself and Mr. Heidt as joint tenants and which was executed by a Japanese. Will you tell the Court what that transaction was?

A. Well, it was leased personally to a Japanese at first and then he bought it afterwards. [74]

Q. I don't quite understand that. You say the Japanese bought the property?

A. He bought it.

Q. And how did it occur that you took the trust deed to which reference has been made?

A. I don't know. I couldn't tell you that.

Q. Was that taken as part of the purchase price?

A. It must have been. Mr. Heidt took full charge of that deal. I had nothing to do with the building. Mr. Heidt took full charge of that building.

Q. Where was that building located?

A. That is on Ruth Avenue and Stanford Avenue.

Q. In this city? A. Yes, Los Angeles.

Q. Do you remember about when you acquired that property?

A. Well, he built it. Mr. Heidt built it.

(Testimony of Louise Seeley.)

Q. This is not one that you have heretofore testified to?

A. No, that is another. He built that.

Q. How large a property is that?

A. That is just a hotel.

Q. That was a hotel? A. Yes.

Q. About when was it built? [75]

A. That has been built about 14 years ago.

Q. How large a hotel building was that?

A. Well, I think it was two stories, but I don't know, I don't know how many rooms, but it is two stories, I don't remember how many rooms, I have never paid much attention to that.

Q. So you had that building for a few years and finally sold the building to a Japanese?

A. The Jap is still paying, because the manager is still taking care of it for him.

Q. So it was occupied by the Japanese?

A. Yes.

Q. But you had a substantial income from it?

A. Yes.

Q. At the time of the death of Mr. Heidt, you had money on deposit, as I understand it, in a checking account in the California Bank at 9441 Wilshire Boulevard in Beverly Hills. A. Yes.

Q. Do you know where the moneys came from that were in the account at the time that Mr. Heidt died?

A. Well, he just sold out different properties at different profits and that we had accumulated that way, you know.

(Testimony of Louise Seeley.)

Q. From the transactions to which you have referred? A. Yes. [76]

Q. And also there were on hand at the time that Mr. Heidt died 20 United States Defense Bonds of the par value of \$2000.00? A. Yes.

Q. Do you remember the incident of the purchase of those bonds?

A. He just got them for me, so I saved them. He presented me with those.

Q. He did? A. Yes, he did.

Q. About when was it that he presented you with those bonds?

A. Well, just as soon as the war broke out, the war hadn't broke out yet, he thought he better get the bonds.

Q. Did you have any conversation with him at the time you say he presented them to you?

A. Yes.

Q. Where did that take place?

A. Right at my home.

Q. Where was that?

A. That was at the ranch. You you mean where we lived? 745 South Dunsmuir Road.

Q. In these Dunsmuir Apartments, at your apartment? A. Yes.

Q. Who were present at the time that he presented these [77] defense bonds to you?

A. Well, he just handed them out to me just in the house.

Q. Was anybody present but you and Mr. Heidt?

A. Yes, sir, Mr. Heidt.

(Testimony of Louise Seeley.)

Q. What did he say?

A. He says, "Everything I have I want you to get, anything I have, and there is nothing to worry about, we don't owe anything and I am glad you have made it and you worked harder than I did, and that is why if anything does happen to me you can get these bonds and use them."

Q. Did he have the bonds with him at the time?

A. They were in the bank, in the box.

Q. Did you at one time in the course of the business dealings during the period to which we have referred purchase a piece of property from Mr. Bullock? A. Yes.

Q. Where was that? Have you heretofore testified to that piece of property?

A. Yes, it was the corner there of West Moreland.

Q. That is the Westmoreland property?

A. Yes.

Q. Was that later sold?

A. We sold it back to Mr. Bullock when he started the store, because he said he thought he needed that lot. [78]

Q. Do you remember what you received for the sale of that property to Mr. Bullock?

A. Well, we sold it for \$100,000.00.

Q. About \$100,000.00? A. Yes.

Q. Was that after a lot of expenses and taxes and assessments in connection with the opening and improving of Wilshire Boulevard?

(Testimony of Louise Seeley.)

A. Yes, on Wilshire Boulevard, and they had all the lots on that street, and everything was assessed for the two streets all around, all between the two.

Q. When you finally got through with all of it, how much did you have left?

A. I think it was about 38, and I didn't have the cash on hand at the time, it was not cash that was paid but he charged that and paid that off. We didn't——

Q. You say you only had about \$38,000.00 left out of \$100,000.00?

Mr. Melville: She didn't say that.

Mr. Clark: Yes, that is what I understood her to say.

The Witness: Yes, that is all.

Q. (By Mr. Clark): Would you tell me how much? I understood you to say that that was the fact.

A. That was the fact.

Q. Now, in Schedule 6 attached to the estate tax return in evidence here, there are enumerated eight items, Mrs. Seeley, and Item No. 1 describes a certain real property situated in that portion of the southwest corner Section 14, Township 2 North, Range 16 West, Ranch Exhibition at San Fernando described as follows, and then follows the metes and bounds description.

A. Yes.

Q. Without reading the metes and bounds description, do you identify that property as one to which you have heretofore testified?

A. One of those ranches, yes.

(Testimony of Louise Seeley.)

Q. Which ranch is this now?

A. I have to count them up, because I don't know about the addresses of all of those. I have to count them up. I don't know which one.

Q. This was one that was acquired and held at the time of Mr. Heidt's death.

A. That is the North Ridge Ranch.

Q. The North Ridge Ranch to which you have heretofore testified?

A. That is where that was, North Ridge Ranch.

Q. And that property was acquired upon what consideration?

A. Well, he paid cash for it. He paid and wanted cash and then I sold the land in Palm Springs and put the money in there, then I went to somebody else in Palm Springs because he paid the cash and borrowed the money. I don't know that part of it. He had the money to pay, but this is some friend that—he didn't like that, he wanted to have the ranch, and he borrowed from somebody else and I sold the Palm Springs place and gave it to him so he could pay that man off.

Q. How much did you get out of the sale of the Palm Springs place?

A. I sold it for \$9000.00.

Q. What did you do with the \$9000.00?

A. Put it right in on this ranch, gave it to Mr. Heidt.

Q. The North Ridge Ranch?

A. The North Ridge Ranch, yes.

(Testimony of Louise Seeley.)

Q. Parcel No. 2 is described as lots 53 and 54 in Tract No. 4404 of the City of Los Angeles. Do you recognize the location of that property from that description?

A. No, I don't. I don't know much about the numbers of tracts. I will be very frank, I wouldn't know which one.

Q. The return stated it was valued at the time of the death of Mr. Heidt for \$55,000.00. Do you remember now what property that was?

A. Well, it must have been the—that was the North Ridge Ranch.

Q. No, this is in the City of Los Angeles. It is referred to as Lots 53 and 54 in Tract No. 4464.

A. That is the Dunsmuir property, I guess.

Q. That is the Dunsmuir property which you have testified about?

A. The only thing I can think of.

Q. Then the next parcel, Parcel No. 3 is described as Lots 24 and 25 of Sunset Court Tract. Do you remember that property?

A. That is around Sunset, that is what that is.

Q. Have you previously testified to that?

A. No, I have not.

Q. About when were those acquired?

A. Well, they were about 15 or 17 years old when we bought them.

Q. Did you buy them or build them?

A. No, we bought them.

Q. And do you remember how much was paid for them?

(Testimony of Louise Seeley.)

A. I think it was 15,000 for one and I don't know what this other one was.

Q. Do you have any recollection of an approximate sum?

A. Well, it must have been around twelve or fourteen for the other one. [82]

Q. 12,000 or 14,000 for the other? A. Yes.

Q. What moneys were used for that? Did you have the price of those two properties?

A. Well, I think the money was accumulated, that is the only way, we accumulated it, both working.

Q. From the transactions you have described?

A. From the transactions, and I worked.

Q. Parcel No. 4 is described as Lot 86, Tract 7710 in Beverly Hills, do you remember?

A. That must be the El Camino house. That is all I can think of.

Q. The El Camino house? A. Yes.

Q. Do you remember the price on that? The return shows that this property has been sold for cash since November 22, 1942, at \$11,000.00. Do you identify that from that?

A. I think it was 9000.

Q. How?

A. About 9000 or 10,000, I think it was.

Q. It is stated that it was sold for 11,000 after November 22, 1942. Do you identify the property from that? A. Yes.

Q. Was it improved?

A. It had a house on it.

(Testimony of Louise Seeley.)

Q. Is that the El Camino property you referred to?
A. Yes.

Q. Then Item No. 5 is the promissory note given by the Japanese in the sum of \$16,000.00. That is the note and transaction you have testified to?

A. That is the note, yes.

Q. Then Item No. 6 is moneys held in the Bank of America in joint tenency in the names of yourself and Joseph H. Heidt, and on November 22, 1942, there was a balance of \$21,951.37. Do you know what accounts those moneys came from?

A. They came from different rents that rented buildings and apartments.

Q. From the businesses to which you have heretofore testified in which you were engaged?

A. Yes.

Q. Then Item No. 7 is the checking account in the California Bank at 9441 Wilshire Boulevard with a deposit on hand at the date of his death of \$109.02. You have already testified, as I recall, to that item.
A. Yes.

Q. Now, Item No. 8 consists of 20 United States Defense Bonds, to which you have heretofore testified. Now, Mrs. Seeley, during Mr. Heidt's life time and while he was engaged in business, did he make money as well as lose money within your personal knowledge? [84]

A. Oh, yes, he made a lot of money but he lost twice.

(Testimony of Louise Seeley.)

Q. And who took care of the payment of the living expenses of yourself and Mr. Heidt during his life time after your marriage?

A. Well, he took care of all that.

Q. Paid it from his earnings, did he?

A. Yes, he did.

Q. Now, did you have any conversation with Mr. Heidt at any time when title to properties were taken in your name as to what he intended as to who actually should be the owner of it?

A. Well, he always told me that everything that he ever made or whatever property we had, regardless of what it was, that it is all mine. He says, "I am just working for you and that is all, because you have been so wonderful and worked so hard, so everything belongs to you" regardless of what he had, anything he made, everything he had he would leave it to me.

Q. Are you able to say from your personal knowledge of the facts whether or not the net earnings of Mr. Heidt in the business in which he engaged during the period of your marriage exceeded the cost of living of yourself and Mr. Heidt at the time of your marriage?

A. Yes, he always supported me.

Q. He has always supported you?

A. Yes, he has.

Q. And were his earnings during that period in excess of what it took for your living?

A. Oh, not always.

Q. Not always?

A. No.

(Testimony of Louise Seeley.)

Q. Did you ever fail in business while you were engaged in business?

A. No, I never have.

Mr. Clark: Cross-examine.

Cross-Examination

By Mr. Melville:

Q. How much money did you say you had when you were married?

A. Well, I had \$1500.00 and I had a check, and my father and mother, different checks, gave me a check to help me out, you know, different times, the folks from Colton.

Q. Where was that \$1500.00?

A. That the folks gave me?

Q. Yes.

A. Well, part of it—mother gave me part of it and my father gave me part of it.

Q. Where was it? Did you have it in the bank?

A. Yes, and I had some property. It was right around near that in the bank and I had some property at Redlands. [86]

Q. How much did you have when you were married?

A. Well, I had 238 and 1500 and I had 800 besides the 1500, 800 and 300, about 2500, I guess, altogether.

Q. You had an even 1500, did you say?

A. Yes, a little over 1500.

Q. Was it exactly 1500?

A. Yes, I think it was.

(Testimony of Louise Seeley.)

Q. Where was it?

A. In Colton. I had it in Colton at the time I was married.

Q. You still had it when you were married?

A. Yes.

Q. Did you spend it?

A. No, that is the way I started in, you see.

Q. You had it in the bank?

A. No, the money never got in the bank. My folks gave me and I went out in Redlands and bought some property, bought a lot for myself in Redlands and one in Colton. I explained that originally.

Q. Did you earn money before you were married?

A. Sure, I had charge of different hotels.

Q. I see. You had saved by the time that you were married about \$700.00 or \$800.00 you had in the bank?

A. No, I gave it to the folks and told them to save that for me, because I was nothing but a kid, so I told mother to give it back, and she would.

Q. You had saved up \$800.00 that you had given to your folks to hold for you.

A. Yes.

Q. Then when you got married they gave you that money back?

A. Yes, they gave the money to me.

Q. And they gave you the money you put into a home?

A. Yes.

Q. How much money did they give you altogether in the time you got married?

(Testimony of Louise Seeley.)

A. You mean how much money they gave me altogether?

Q. Yes.

A. Well, they gave me altogether, well, let's see, it is over a couple of thousand dollars all told.

Q. Did they give you that in cash or check?

A. No, mother never believed in checks, she always wanted to get the gold for it, would have nothing to do with a check, always had gold pieces.

Q. She gave you this roughly \$2000.00 in gold?

A. Yes.

Q. What did you do with it?

A. Well, I bought the property and different things, the folks were always with me, to see if it was all right, and said that it looked that it was all right, I started right in business.

Q. Precisely what did you have, did you have \$1500.00 and \$800.00, total \$2300.00, is that right?

A. Yes. I gave that to him, to Mr. Heidt, and he went in business at the start, I used part of it and started right in and gave him some.

Q. First in the picture there was \$800.00 which you had saved, had given to your folks to hold for you.

A. Yes, that was my own money, yes.

Q. Then when you got married they gave you back the \$800.00?

A. They gave me back the \$800.00.

Q. And \$1500.00 more?

(Testimony of Louise Seeley.)

The Court: I am afraid the reporter will get a confused record. Just ask one question at a time, Mr. Melville. [89]

* * * * *

Q. (By Mr. Melville): Is it a fact that at the time you were married you had saved——

A. Yes.

Q. ——\$800.00? A. Yes.

* * * * *

Q. That \$800.00 that you had given to your folks to save for you—— A. Yes.

Q. ——at the time you were married——

A. Yes.

Q. ——they gave you back—— A. Yes.

Q. ——at the time you were married——

A. Yes.

Q. ——your \$800.00—— A. Yes.

Q. ——in gold? A. Yes.

Q. And also gave you \$1500.00?

A. Also in gold.

Q. Also in gold? A. Yes.

Q. A total of \$2300.00? A. Yes.

Q. What did you do with the \$2300.00 in gold?

A. I gave it to Mr. Heidt when we were married so he could start in business, so he could start in with whatever he wanted to do, because he was—I gave it to him, part of it, I kept part myself, of course, so I could start right out and start in business somewhere, and then he put it in that store, so he changed it, so he started right in there that way again.

(Testimony of Louise Seeley.)

Q. Didn't you say a few minutes ago——

A. Yes.

Q. That your folks were with you when you bought property? A. Yes.

Q. With your own money? A. Yes.

Q. How much money of this \$2300.00 now——

A. Yes.

Q. ——how much did you give to your husband to start in business with?

A. I gave him about a thousand dollars.

Q. How much did you invest in real estate with your folks present?

A. Well, I took the rest of the money, not all of it, I didn't take all of it, but I saved some and gave some to the mother.

Q. How much did you save?

A. Well, I put a thousand into the other business that the folks ran, and I invested in Los Angeles after we were married.

Q. How much did you invest in Los Angeles?

A. Not a lot, I bought the building there.

Q. You had the \$2300.00 and you gave a thousand to your husband to start business with?

A. Yes.

Q. That leaves \$1300.00. What happened to it?

A. Well, just invested and used for the building and new curtains for the house and bought a house.

Q. Did you save any?

A. No, I didn't save very much because I started right in working again.

(Testimony of Louise Seeley.)

Q. When did you first obtain a real estate license? [92]

A. Oh, that has been about 20 years ago.

Q. What year would you say that was?

A. 20 years ago.

Q. Do you remember what year you obtained that real estate license?

A. Well, this is 1946. All right, 19 years ago.

Q. How long did you hold that real estate license?

A. Well, I didn't hold it—I think a couple of years.

Q. You are sure of that?

A. Yes, I think several years.

Q. What business was Mr. Heidt in before you married him?

A. Well, he was working in San Francisco for a firm, then he came up here, and as I said when he married me, of course, then we started to buying this property, started the store at the Angel's Flight, that is when he started in.

Q. Is that when he started the first market?

A. Yes, and then he opened a stall in Central Street Market.

Q. Did he buy them?

A. Well, he had a stall in there.

Q. He had what? A. Had a stall in there.

Q. Do they lease those stalls or do they buy them? A. No, you lease them.

Q. Did he have a stall there at the time you were married? A. No.

(Testimony of Louise Seeley.)

Q. Was he working in Los Angeles at the time before you were married?

A. No, he was in San Francisco, then we were married and he stayed here because I couldn't live there on account of my throat.

Q. So that he went into that market?

A. Yes.

Q. What year was that?

A. Well, let me think because what I say, what year was I married, let's figure this out straight now. I was 18 years old and I am 68. We will get this marriage business right now. Let's figure out what year it was.

Q. If you are 68 now and you were 18 when you were married, it must have been 50 years ago.

A. 50 years ago.

Q. That would make it 1916.

The Court: 1896, wouldn't it?

Mr. Melville: 1896, that is right.

The Witness: There is a mistake about the marriage, because I was married out of church the 8th of July, because we had a license in Los Angeles and we couldn't get married at home because Redlands is in Santa Barbara County, and I was [94] married in Los Angeles. I tried to prove that, your Honor, you can say that for me.

The Court: Well, answer as best you can.

The Witness: Because I don't want to get anything in that isn't true, I mean I don't want to mislead you.

The Court: Yes, that is all right.

(Testimony of Louise Seeley.)

Q. (By Mr. Melville): Did you describe your husband or was it your attorney who described him as the potato king.

A. Oh, anybody described him, the whole public called him that.

Q. He was known as the potato king?

A. Well, yes, I don't know anything about it, that is all, they called him, because he had plantations all over that he planted all the field. His own life time operator was to be potatoes. That is why they called him the potato king.

Q. He gave you a living from that business?

A. Yes, he made a lot of money, but he was broke a lot of times, then he gambled once more, then he got broke again.

Q. Do you know how much money he made in potatoes?

A. I knew that he lost money once in a while.

Q. He went bankrupt twice. I believe you testified.

A. I don't think they reported bankruptcy, because he [95] was too proud. He told me, "That is all the money I own." He didn't—he spent the money himself once, and then he started in again and worked out of it.

Q. When he lost everything, did anybody bring suit against him?

A. Oh, no, no.

Q. He was never sued?

A. No.

Q. He never went through bankruptcy?

A. No. You see the market broke down, that was the cause, you see, like you go together and have a big proposition, of course, and the market

(Testimony of Louise Seeley.)

went down and had to sell beneath the price of whatever it cost him. That is the way it was, the whole thing is gone.

Q. Did Mr. Heidt have an attorney during his life to look after his affairs?

A. Yes, Mr. Bull.

Q. Mr. who? A. Mr. Bull, Ingall Bull.

Q. What did Mr. Hickey have to do with his affairs?

A. Mr. Hickey had nothing to do, he was just a friend. I didn't know anything about Mr. Hickey. He came to the ranch and this and that, and we were just friends and I had to get him, you know what happened, I said he should take charge of Mr. Heidt's case, because he had heart trouble [96] and then he died of heart trouble on the ranch, because I didn't particularly have the money to take of anything, so I told him to take care of all this and he did, of course, then afterwards he passed away and I just had Mr. Clark. Everyone knows it.

Q. When did Mr. Hickey pass away?

A. I don't know when it is. When was that, now? I think it was last year. Was it two years ago? Was it, he passed away?

Q. I am sorry. I don't know.

A. I was just asking. I thought probably Mr. Clark knows it. You know finding your husband dead in bed, such a thing is awful. I couldn't think of nothing. That is why I can't remember.

(Testimony of Louise Seeley.)

Mr. Melville: May your Honor please, opposing counsel has offered to clear up this question of when Mr. Hickey passed away. Would you mind just stating that and let us stipulate?

Mr. Clark: Yes.

The Court: You may state in the record when Mr. Hickey passed away.

Mr. Clark: My recollection, your Honor, is this, that when I was called in the matter I went to Mr. Hickey's office and he then showed me a preliminary draft of the estate tax return and told me that he was unable to complete [97] it because he was not feeling well, and he wanted me to go ahead and complete it, so I did some work on it, and I would say that it was within at least two months after that time that the report was actually filed, and I think he died within a month or so, either within a month or so before the report was filed or after it was filed. As I recall now, he had been dead some little time, some weeks before I even learned about it.

The Court: What is the date of the return?

Mr. Melville: It was filed on June 14, 1943, your Honor.

Mr. Clark: I think he must have died somewhere between May and August, 1943.

The Court: Very well. That will be accepted as a stipulated fact as to the death of Mr. Hickey.

Q. (By Mr. Melville): Did I understand you to say that you had turned all of your papers over to Mr. Hickey in order that he might probate the estate?

(Testimony of Louise Seeley.)

A. I brought him everything to take care of my affairs and check up everything and just left it. I brought him everything, even the records that they hold for you at the bank, so he just took full charge.

Q. Did he probate the estate?

A. I don't know what it was. I couldn't tell, because [98] I was sick. I was at the ranch. I couldn't be in town at all. I just thought that he would know how to take care of it.

Mr. Clark: I am willing to stipulate that he did, your Honor.

The Court: Very well, that fact will be stipulated.

The Witness: I'm sorry I can't.

Mr. Melville: I think the estate tax report will show that it was not probated.

The Court: You mean there was no probate proceeding?

Mr. Melville: That is right.

Mr. Clark: You see in California it technically is probated by a petition for the termination of joint tenancy and fixation of the tax in that proceeding, and ascertainment is made of his affairs by order of the court, and then you ask leave to file a motion to set aside the joint tenancy of the property. That is what I meant when I said it was probated.

The Court: Very well, that will be understood as what is meant when you spoke of his probating the estate.

(Testimony of Louise Seeley.)

Q. (By Mr. Melville): On several occasions during your direct testimony you said——

A. Yes. [99]

Q. ——that your husband, your former husband——

A. Yes.

Q. ——had on more than one occasion explained that if anything ever happened to him he wanted everything to belong to you.

A. Yes.

Q. Is that the reason that the property was placed in joint tenancy?

A. I guess so, because he wanted me to have everything if anything happened to him. and if anything happened to him different that is the way he made it out.

Q. That was your understanding?

A. That was my understanding. That is the way I got it.

Q. If anything happened to him everything would go to you?

A. Yes.

Q. And if anything happened to you everything would go to him.

A. Yes, that is the way it was.

Q. And because of that understanding you had all your real property placed in joint tenancy.

A. Yes.

Q. And it is because of that same understanding that you carried all the bank accounts in joint tenancy? [100]

A. Yes.

Q. When these bonds were presented to you, were they made out in your joint names also?

A. They were made out just for me.

(Testimony of Louise Seeley.)

Q. Just for you? A. Yes.

Q. Then why did you include them in the gross estate?

A. I don't know what you mean. He gave them to me. Let's see what you mean now.

Q. Is that your signature on here, your signatures? Can you find your signature on here?

A. These two are mine.

Q. You then are the executrix of this estate?

A. Yes.

Q. You filed this estate tax return which is in evidence as Exhibit 1-A? A. I don't know.

Q. I call your attention to Item 8 on this schedule. The last item, No. 8, says: "20 United States Bonds of the par value of \$2000.00, decedent's one-half interest \$1000.00." I call your attention to the fact that decedent's one-half interest, \$1000.00, is written in pen and ink. Do you know who wrote that? A. That is my husband's writing.

Q. That is your husband's writing? [101]

A. Looks like his writing.

Q. I don't know how your husband could have prepared his own estate tax returns?

Mr. Clark: Well, she means her present husband. She only has one husband.

Q. (By Mr. Melville): That is your present husband's writing? A. Yes.

Q. Did he help you prepare this estate tax return?

A. I gave everything to Mr. Hickey, I gave him the bank books and everything. Afterwards I got Mr. Clark.

(Testimony of Louise Seeley.)

Q. Mr. Clark, however, prepared that with information from you? A. Yes.

Q. Will you explain to the Court then why on your return the decedent's one-half interest in these 20 United States Defense Bonds was recorded at a thousand dollars?

A. Well, I left it right to them. If it wasn't right, that is the only way I could do, just like I turned it over to them.

Q. Did you show them the bonds? A. Yes.

Q. Do you still have the bonds?

A. I don't know whether I have them now or not. I guess. I don't know. I don't know whether I have them or not. [102]

Q. I call your attention to Schedule E on this estate tax return. A. Yes.

Q. And specifically to the item No. 1. By what name have you referred to this first item during your testimony on direct examination?

A. You mean now or when?

Q. When your own counsel was asking you questions.

A. Before I was married, you mean? Mrs. J. H. Heidt.

Q. No, this Item 1 on this schedule that I laid before you. That is a piece of property that was sold for cash subsequent to your husband's death.

A. Yes.

Q. For a price of \$30,000.00. What property is that?

A. Let me see. You mean it was sold while he was alive?

(Testimony of Louise Seeley.)

Q. No.

A. I should not have caused all this trouble.

Q. The first item on this schedule.

A. Yes.

Q. Is described as a portion of the southwest quarter of Section 14, Township 2 North, Range 16 West, Ranch Ex Mission de San Fernando, described as follows:

A. That must have been that North Ridge place.

Q. The North Ridge place? [103]

A. Isn't it?

Q. Did you sell the North Ridge place?

A. Yes, after he passed away.

Q. Do you know how much you sold it for?

A. \$28,000.00. Have you got it on here?

Q. Well, this was sold for \$30,000.00. Would that be the same property?

A. What would be the same?

Q. This first item that I just called your attention to that you said is the North Ridge property.

A. It must have been sold for 30,000, it says 28,000, it must have been because we made it 30,000 because I only got 28,000 because I was paying it back with interest, see what I mean? We bought it and paid so much down, of course. I guess the interest amount to since that time to thirty.

Q. So your recollection is then that you sold it for 28,000, but the difference between 28,000 and 30,000 as reported on this report—

A. That must be the interest.

(Testimony of Louise Seeley.)

Q. Must be the interest you paid on the sale?

A. Yes.

Q. When did you acquire this North Ridge property? [104]

A. Just about two years before Mr. Heidt passed away.

Q. When you acquired it, was the title to the property taken in your name and his name jointly?

A. Well, I couldn't tell you. I don't know.

Q. Who made the deal?

A. Mr. Coaley of North Ridge, Mr. Coaley, the real estate man.

Q. Was your husband present? A. Yes.

Q. How did you acquire this property? How much did you pay for it?

A. I think it is twenty-eight or something like that.

Q. Are you confusing the twenty-eight that you paid for it with the twenty-eight that you sold it for? Did you make any money or lose any money on it?

A. I didn't make anything on it. I sold it off right off, because Mr. Heidt passed away. I just sacrificed it.

Q. Your recollection is then that you paid more for it than you sold it for? A. Yes, yes.

Q. Do you remember what you paid for it?

A. Around twenty-eight or thirty, something like that. Doesn't the deed show how much it was or something you can find out here?

Q. I haven't seen any deed. When this was purchased, [105] did you pay cash for it?

A. Yes.

Q. Or did you trade something else in for it?

A. No, Mr. Heidt he bought it cash, and I sold the land at Palm Springs out for two thousand. That is money borrowed privately.

Q. Let me make sure I understand that. When Mr. Heidt bought the North Ridge property——

A. He borrowed from a friend and paid cash.

Q. He borrowed from a friend and paid cash?

A. Yes.

Q. You are pretty sure about that?

A. Yes, I am.

Q. For the whole amount?

A. Yes, but he had borrowed from somebody else to pay the cash, then I sacrificed the land at Palm Springs and gave it to him to give to that man.

Q. This Palm Springs property that you speak of, was that in your name and Mr. Heidt's name jointly? A. No that, was my own.

Q. Where did you get that?

A. We built it, I bought and built. We bought the land and I built a place on there.

Q. You say we bought the lot. What do you mean by that? [106]

A. I mean I bought the lot and then I built on it. They had a little house on it and then I built two houses on afterwards.

Q. When was that?

A. That was in 1940, I think, 1939. I guess 1939.

(Testimony of Louise Seeley.)

Q. Do you remember how much you paid for that Palm Springs property?

A. No. I can find out from a friend of mine. I don't remember what it was.

Q. Did you trade any property in for it?

A. No, I just bought that little house with two lots.

Q. Paid cash for it?

A. Yes. I don't think it was any more than about forty-five hundred, something like that. I am not sure, though.

Q. You don't know how much you paid for it?

A. No. It was four years ago.

Q. But you did pay cash? A. Yes.

Q. Was that cash that you paid derived from the sale of some other property? A. Yes.

Q. What property was that?

A. Well, from different property we sold. I just put together and bought the lot. [107]

Q. From different properties that you and your husband sold? A. Yes.

Q. Coming to the next item on this Schedule E, described as Lots 53 and 54 of the Tract numbered 4464, City of Los Angeles, California, as per map recorded in Book 48, page 51 of Maps in the Office of the County Recorder of Los Angeles County, State of California, does that mean anything to you? A. No.

Q. Well, maybe this will help you. It was sold apparently after your husband died for \$55,000.00.

A. Yes. Well, that is the Dunsmere property, that is the only way I can remember the cash is—

(Testimony of Louise Seeley.)

Q. Well, I don't know that it says cash. It says for a price of fifty-five thousand.

A. Part of that I know.

Q. That is the Dunsmere property?

A. Yes, that is the Dunsmere property.

Q. When was that acquired?

A. That was acquired about 12 years or 10 years ago.

Q. About 10 or 12 years before 1942?

A. Yes.

Q. How was it acquired?

A. Well, just in different trades we made in making money in changing and trading. That is the only way I can [108] explain those things.

Q. Did you trade something in on it?

A. No, he bought it for cash, I think.

Q. You think he did? A. Yes.

Q. Now, referring to Item No. 3, which is described as two lots, 24 and 25 in Sunset Park Tract. A. Yes, I got two places there.

Q. What is the description that you have used in referring to those pieces of property? Is that the Sunset Park property, or does it have some other name?

A. No, it is Sunset place, two places, one five-room and the other is four-room.

Q. Sunset Place. When did you acquire that?

A. That is about 15 years ago or more.

Q. 15 years before your husband's death?

A. Oh, yes.

(Testimony of Louise Seeley.)

Q. Did he pay cash for it?

A. Well, I think I paid some and he paid on the other one.

Q. Do you know how much each one of you paid?

A. Oh, no. I think it seems to me it was fifteen thousand on one of them. I don't know what he paid for the other one.

Q. He paid for one? [109]

A. Yes, and I paid for the other.

Q. And you paid for the other one?

A. Yes, with my money.

Q. Do you know how much you paid for yours?

A. Fifteen, I think it was.

Q. Fifteen thousand? A. Yes.

Q. Do you know how much he paid for his?

A. His was about that much too, I think.

Q. You don't know?

A. Oh, in that neighborhood.

Q. You paid fifteen thousand, did you not, and he bought the other half of this same property?

A. Yes. They are different properties. different estates, different properties.

Q. Were the ranches the joint property of you and your husband?

A. I believe they were. I don't know. I couldn't tell you for sure.

Q. Do you know how the ranches were acquired?

A. Well, of course the Chatsworth Ranch, he picked that out and he said, "I will take it because I think it will be right," on account of his health, you know.

(Testimony of Louise Seeley.)

Q. And he paid for it? A. Yes. [110]

Q. Now, referring to Item 4, this item is from Beverly Hills property, Lot 86, and that was sold for \$11,000.00 after your husband's death. What is your description of that in your previous testimony?

A. That is the home on El Camino.

Q. The El Camino home?

A. 237 South El Camino.

Q. Was that the home that you and your husband lived in? A. Yes, for awhile.

Q. Do you recall when that was acquired?

A. Well, Mr. Heidt took a mortgage from the bank and then I think the bank, he had a party in and wanted to get a mortgage on this house, so Mr. Heidt gave him the money for it, and he took the house. I don't know what it is, what you call it.

Q. Now, under Item 5, which is this note given to you and your husband by the Japanese.

A. Oh, yes.

Q. Is that right? A. Yes.

Q. The note was payable to you and your husband?

A. Yes, it is joint tenants, I think.

Q. And that note was in payment for some property?

A. That is that hotel on Ruth Avenue, that is that [111] hotel that the Jap had.

Q. That is the Elmo Hotel. A. Yes.

Q. You and your husband sold the Elmo Hotel?

A. Yes.

(Testimony of Louise Seeley.)

Q. Is that true? And the other stock that was held, such as a thousand shares of Hermosa Mining Company.

A. I guess that is all the one I had. That is the same thing there.

Q. In other words, everything that was in your own name was not included in the gross estate?

A. No.

Q. And all of those things which were in your joint names are included in the gross estate, is that right? [114]

A. I don't know enough about this, everything was to be made the right way, the way it should be, because Mr.—I am not sure.

Q. Do you own 150 units of the Hamilton Oil Syndicate?

A. Yes, that is a long time ago. I don't remember much about that. He paid for that.

Q. Was that in your own name?

A. I don't know. I couldn't tell you whether that was or not. He got that. I have got those papers at home for everything.

Q. Do you still own those units?

A. I think I have it, yes.

Q. You still have that, do you?

A. I got nothing out of it. They have it here priced \$150.00. He said maybe it could be good for something, but you have to follow that in the paper, so that is the way.

Q. What can you tell us about the Trust No. 1629, Citizens Trust & Savings Bank. Do you still own any interest in that?

(Testimony of Louise Seeley.)

A. I don't know what to make of that.

Q. There is an item of \$4,000.00 on deposit at the California Bank at 9941 Wilshire Boulevard. In whose name was that account held?

A. Well, that was a joint account but I can't find the book, I don't know where it is. I asked them about it and [115] they said they didn't have it in there.

Q. Was that also joint property? A. Yes.

Q. There are two accounts listed on the estate tax return. A. Yes.

Q. One of them was the \$21,951.37 account with the Bank of America. A. Yes.

Q. And the other was the \$1,409.02 with the California Bank at 9441 Wilshire Boulevard. Now, I believe you have furnished the government information to the effect that there was a \$4,000.00 deposit at——

A. I can't find that. I can't find the book. Mr. Heidt left the book there to be fixed up, and I went after that and they said they didn't have it, so I can't get that book.

Q. Did you swear to a statement on the 31st day of May, 1946, which was addressed to the Technical Staff of the United States Commissioner of Internal Revenue in Los Angeles? A. I think so.

Q. In your statement did you say moneys on hand at the time of the death of my husband, to-wit, a deposit of \$21,998.87 in the Bank of America and a deposit of \$4,000.00 in the California Bank at 9941 Wilshire Boulevard, Beverly [116] Hills, and

(Testimony of Louise Seeley.)

you also referred to a deposit of \$1,409.02 in your checking account with the California Bank at 9941 Wilshire Boulevard. Do I understand from that that in those three accounts you had an item of \$1,409.02 which was in the California Bank checking account? A. Yes.

Q. Then \$4,000.00 was in some other account, is that correct?

A. That four thousand was what I think was Mr. Heidt's. I can't find the book, because I looked all over for it and I couldn't find any.

Q. The \$4,000.00 account you say was yours?

A. Yes.

Q. The other was Mr. Heidt's? A. Yes.

Q. Does that account for the fact that the \$4,000.00 account was not reported in the gross estate, but that Mr. Heidt's account of \$1,409.02 was?

A. Yes, I think everything was reported. The attorney took care of everything. He can testify that it never included anything. [117]

*

*

*

*

*

*

INGALL W. BULL

called as a witness for and on behalf of the petitioner, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Clark:

Q. State your name, please.

A. Ingall W. Bull.

(Testimony of Ingall W. Bull.)

Q. Where do you reside?

A. City of Los Angeles.

Q. You hold an official position in the County of Los Angeles? A. I do.

Q. And what is it?

A. Judge of the Superior Court.

Q. How long have you held that position?

A. Just about 10 years.

Q. Prior to that time were you attorney for one Joseph H. Heidt and Louis Heidt? A. I was.

Q. Louise Heidt being the petitioner, and Joseph H. Heidt being the decedent whose estate is involved? A. That is correct.

Q. How long had you known them?

A. I think I became attorney for Mr. and Mrs. Heidt about 1906.

Q. And during what period of time between the year 1906 when you first assumed that relationship to the time when you went upon the Superior Court bench of this county, during what portion of that time did you represent them as your lawyer?

A. Practically all of the time, I believe.

Q. And in what detail did you take care of their legal business?

A. Well, when they had lawsuits I tried them. When they made deals on real estate and contracts I usually attended to the matters for them.

Q. And was that true both in the transactions in which Mrs. Heidt engaged as well as those in which he engaged? A. That is correct.

(Testimony of Ingall W. Bull.)

Q. By reason of that relationship and your attention to their legal affairs, did you keep yourself personally informed as to the progress of their business? [119]

A. Well, I naturally was conversant with their business because I was consulted about it practically all of the time.

Q. During that time will you state to the court briefly but substantially what you observed and knew as to Mrs. Heidt's activities and business affairs?

* * * * *

The Witness: Mrs. Heidt handled all of the real estate transactions except such as pertained to the produce business, and that was—that is, Mr. Heidt was engaged primarily in the potato business, and he and Mr. Zimmerman were the largest potato dealers in Los Angeles for a great many years, and Mrs. Heidt bought and sold properties and improved properties, furnished them and sold them, and she was engaged in that business, but for purposes—not for the public, she was a real estate broker or agent.

Q. Now, what business in reality were you engaged in in connection with his business?

A. Sometimes leases to plant potatoes and onions, and being in Idaho as well as California. His principal stocks of potatoes came from Idaho.

Q. Did he during the period of your representation of him and Mrs. Heidt go broke in the business in which he was engaged?

(Testimony of Ingall W. Bull.)

A. About three times. That is a highly speculative business.

Q. Do you remember about when those occasions were?

A. It is so many years ago. I might say I destroyed my files about three years ago. I thought the statute of limitations had run on most of the business that I had attended to. But for that I would have those files, and I could tell you all about it if I had my files.

Q. From your observation it would be approximately when?

A. Well, a short time, a comparatively short time, and when I say a comparatively short time I don't mean months, I am speaking in years because from recollection I can't fix [122] the time, a comparatively short time before he retired from business, and he was retired from business, oh along in the early '30's, and then once maybe four or five or six years before that time and then earlier around maybe 1913 or '14 or '15, along in there.

Q. Now, do you know that on occasions when he did go broke his affairs were adjusted through a Board of Trade?

A. I believe it was through the Board of Trade. They were handled down there by Mr. Craig.

Q. W. G. Craig? A. Yes.

Q. Now deceased? A. Yes, he is deceased.

Q. He has been dead about how many years?

A. I can't recall just when Mr. Craig died.

(Testimony of Ingall W. Bull.)

Q. It has been more than five or six years?

A. Oh, yes, it has.

Q. During the period that you were representing Mr. and Mrs. Heidt and on occasions when titles to real property were acquired, did you have any conversations with Mr. Heidt as to his interest in the properties?

A. My recollection is that most of the moneys for those properties came from Mrs. Heidt through her individual dealings. I couldn't name any of the properties that he acquired, that she acquired and that she built and suggest a date on them. I considered her a very good business woman and Mr. Heidt took no part in the real estate dealings.

Q. And on these occasions did he ever speak to you about what Mrs. Heidt's connection with the real estate and the title was?

A. Well, Mrs. Heidt, I always considered the property Mrs. Heidt's property.

Q. Did he ever make such statements to you?

A. Yes, he did.

Q. On more than one occasion?

A. Yes, many times.

Q. In substance what did he say?

A. He said that those properties were hers, that he was engaged in a very highly speculative business, and that he wanted her to be sure that she had something to live on. I might also say about Mr. Heidt that when he would recoup his fortunes he would pay off his debts.

(Testimony of Ingall W. Bull.)

Q. Is that right?

A. Yes, regardless of any legal liability.

Mr. Clark: I am glad to have you volunteer that. You may cross-examine.

Cross-Examination

By Mr. Melville:

Q. You stated that you handled their lawsuits. I take it they had lawsuits? [124]

A. Oh, yes.

Q. What would the nature of those lawsuits be?

A. Oh, minor lawsuits. I can't say anything of any vast consequence. Sometimes it involved suits for Mr. Heidt. That was the primary thing.

Q. Suits for him you mean, where he was the plaintiff?

A. Plaintiff or defendant.

Q. He has been a defendant then?

A. Oh, yes.

Q. On a number of occasions?

A. Yes.

Q. Did he ever go through bankruptcy?

A. No, he did not.

Q. Did you state that to your knowledge Mrs. Heidt was never a real estate broker or agent?

A. Not that I recall, but bear in mind I have not been in touch with their affairs at all for 10 years.

Q. All of the real estate dealings that she had were for the Heidts, Mr. and Mrs. Heidt?

A. Yes. Of course I might, in connection with that answer I might say this, that I considered that

(Testimony of Ingall W. Bull.)

it was for her, because she was the one who speculated in real estate, and she was very successful.

Q. Now, his business, you said, was rather speculative? A. Yes, very speculative. [125]

Q. And he went broke three times?

A. Yes.

Q. What precautions did he take to protect his wife against this speculative business?

A. Giving her property, in other words——

Q. Putting the properties in her name?

A. Yes.

Q. And when he and his wife took the properties in their joint name, was that because the business at that particular time was not too speculative and he could take a chance on being a joint tenant of the property?

A. No, I don't think that. I think his intention was that his wife should have the real estate.

Q. But how would you account then, Judge, for the fact that much of the real estate was taken in their joint name?

A. Whatever they wanted was what was done. Now, as far as accounting for it, I don't know why they wanted it that way.

Q. Well, now, if he should go broke with real estate in the joint name of Mr. Heidt and Mrs. Heidt, wouldn't that real estate be subject to seizure by creditors?

A. I will have to give a little thought to that question, as to what the law was at that time. You are speaking of joint tenancy.

(Testimony of Ingall W. Bull.)

Q. I mean now in joint tenancy. [126]

A. Yes.

Q. You indicated in answer to a previous question that the reason that the property was placed in her name was to protect her against this speculative business that he was in?

A. That is correct. That was exactly it.

Q. Now, then, in a situation where the property was taken in their joint names, I am asking you whether and how could a joint tenancy protect her against this speculative business of his?

A. Well, it would not be subject to seizure until the tenency was terminated.

Q. You mean a judgment obtained against Mr. Heidt, the judgment creditor could not levy against or in any way touch the jointly owned property?

A. Oh, yes, he could touch the interest of the judgment debtor, yes.

Q. That is what I thought.

A. Yes, certainly.

Mr. Melville: No more questions.

Mr. Clark: That is all. [127]

* * * * *

Mr. Clark: Your Honor, I am offering in evidence by reference to the original on record in Book 3409 of the Official Records of Los Angeles County at page 289 thereof a corporation grant deed from Security Trust and Savings Bank, a corporation, as grantor, to Louise Heidt, a married woman, as grantee, of that certain property described as Lot 11 in Block 4 Rossmoyne Park, as

per may recorded in book 70, page 23 of Maps in the Office of the County Recorder of this county, the date of that deed being August 9, 1924, and the deed containing the statement that the—near the end of it and not before the signature reading as follows:

“Grant deed issued by the above grantor dated July 8, 1924, whereby the above described property was deeded to Louise Heidt, a single woman, which deed was recorded on the 25 day of July, 1924, in book 4061, page 23 Official Records of Los Angeles County, the status of grantee having been erroneously expressed therein.”

Mr. Melville: Your Honor, I object to the introduction [128] of this testimony on several grounds: First, it has not been shown that this property was in the gross estate on the date of decedent's death; secondly, he has only read extracts from a recording here which runs over three pages; third, all it purports to show is that the deed was taken in the name of the surviving spouse. Of course the fact that the deed was taken in her name to protect her against the hazardous business that he was engaged in does not prove any contribution on her part to that property. The fact that I might buy some property, and have that recorded in my wife's name or my son's name does not prove that my son or my wife paid for the property, and I think this is immaterial.

The Court: What is the purpose of it?

Mr. Clark: The purpose of it, your Honor, is this: It is the testimony of the petitioner and also the testimony of Judge Bull that during the period of the marriage of these two parties she engaged in business transactions and acquired titles to property, and that insofar as any contribution to the purchase price of those properties was made from the community earnings of the parties, the husband stated to her that he was making a gift of his interest, whatever it may be because of that community interest, to his wife. We are corroborating that by showing that through that period of time there were approximately ten pieces of property that were acquired, title to which was taken in the name of this [129] petitioner.

Now she has testified that these properties were bought and were sold and the proceeds went into a revolving fund and finally went into the purchase and improvement of the properties which were on hand at the time of the death of Mr. Heidt and stood in their names as joint tenants. That shows the contribution, because if moneys which came from property which she owned went into property which was placed in the name of the two parties in joint tenancy, it constitutes a contribution by her of her own separate estate to the acquisition of those properties, and this book testimony corroborates it, and we have that evidence running through these years. In California law the presumption is that property standing in the name of a married woman in her sole and separate property. That is a presumption declared by the Code.

The Court: I will admit them for the purposes of corroboration.

Mr. Clark: We now offer in evidence by reference an original document recorded in Book 3835, Official Records of the County of Los Angeles at page 22, a grant deed from Howard A. Wilson and Georgia Baker Wilson, husband and wife, to Louise Heidt, a married woman, as her separate property, of that certain real property known as the north 6 acres of the northeast half of the northeast quarter of the southeast quarter of Section 12, Township 2 North, Range 17 West, S.B.M., in the City and County of Los Angeles, State of California, which deed bears date of October 22, 1924. [131]

We now offer by reference to the original document recorded in Book 4061 of Official Records of this county at page 23, which is a corporation grant deed from Security Trust and Savings Bank as grantor to Louise Heidt, a single woman, as grantee, and I may say, your Honor, that this is the deed that was corrected by the one first offered, so I simply offer this to complete that record.

The Court: Very well.

Mr. Melville: What is the date of that?

Mr. Clark: And the date of this deed is July 8, 1924.

We next offer by reference to the original recorded in Book 4159 at page 394 of Official Records of this county a deed from Georgia Baker Wilson and Henry A. Wilson as grantors to Louise Heidt, a married woman, as her separate property, covering the north 7 acres of the south 14 acres of the east one-half of the northeast quarter of the south-

east quarter of Section 12, Township 2 North, Range 17 S.B.M. in the City of Los Angeles, State of California, excepting a tract 7 feet wide along the east side of said 7 acres dedicated as a highway.

We next offer by reference to the original which is recorded in book 4768 of Official Records of this county at page 239 thereof an agreement executed as of the 27th day of November, 1926, between Joseph Heidt and Louise Heidt of the City of Los Angeles as lessors and one E. E. Bash of the same place as lessee. [133]

We now offer in evidence a document by reference to the recordation in Book 6042 of the Official Records of this County at page 100, being a grant deed from Gladys and Cannon Dunbar as grantor to Louise Heidt, a married woman, presumptively as her separate property as grantee, covering the real property situated in the city of Beverly Hills in this county, described as Lot 25 in block 95 of Beverly Hills Sheets 6, 7 8 and 9, as per map recorded in Book 54, pages 57 to 60, inclusive of Maps in the office of the County Recorder of this county, which document bears date June 5, 1926.

We offer in evidence by reference to the original recorded in Book 9529 at page 236 of Official Records of this county a deed bearing date January 9, 1930, from Graham E. Harris, a married man, as grantor, to Mrs. Louise Heidt as grantee, covering the real property situated in this county, known as Lot 3 in Block 3, Tract 6768 as per map of said tract in book 79, pages 9, 10 and 11 of Maps and Records of this county.

LOUISE SEELEY

resumed her testimony as follows:

Cross-Examination
(Continued)

By Mr. Melville:

Q. I hand you a document and ask you if you recognize the signature on the bottom of it.

A. Yes, sir.

Mr. Melville: With opposing counsel's permission, I will read in the record a paragraph from the application which was filed with the Commissioner of Internal Revenue in connection with the estate tax return, asking the relief from the tax lien of certain real property:

“That in addition to such real property applicant and said decedent held at the time of the death of said decedent other real and personal property and joint tenancy situated in the County of Los Angeles, State of California, to the reasonable value of about \$100,000.00; that about \$27,000.00 of said property was money on deposit in the bank of America, its branch at Wilshire and Dunsmere in Los Angeles, in Los Angeles, California, [134] and in the California Branch, its branch at 9441 Wilshire Boulevard, Beverly Hills, California: and that at the time of the death of said decedent said decedent was not indebted and your applicant was not indebted in any sum whatsoever excepting for nominal current living expenses, and your ap-

(Testimony of Louise Seeley.)

plicant has ample funds with which to pay the tax payable upon such property as soon as the same may be ascertained in accordance with law.”

Q. (By Mr. Melville): Now, let me ask you, referring to this \$27,000.00 which was in these two banks in your joint names, whether that did not include this \$4,000.00 item in the California Bank?

A. No, sir, it did not.

Q. According to the estate tax return there was \$21,951.37 in the Bank of America. A. Yes.

Q. And there was \$1,409.02 in the California Bank. A. Yes.

Q. Now when you add \$4,000.00 to that, how much do you get? \$27,000.00.

A. I don't understand.

Q. What?

A. I don't understand what you mean.

Q. This is your signature, is it not?

A. Yes. [135]

Q. You swore by this statement that \$27,000.00 was correct, did you not? A. Yes.

Q. How do you reconcile the \$27,000.00 sworn to here with the total which is shown in Items 6 and 7 of your schedule attached to the estate tax return, which amounts to about \$23,000.00, unless you add the \$4,000.00, how do you arrive at that \$27,000.00?

A. Well, I sold the North Ridge Ranch and got the deposit on that, and just through paying for it, they paid a certain amount down, I don't remember

(Testimony of Louise Seeley.)

how much of an amount they paid. The California Bank would know that.

Q. I don't believe you understood my question. This statement which I read in the record about \$27,000.00 is to the effect that you had in your joint accounts at these two banks a total of \$27,000.00?

A. Yes.

Q. According to the estate tax return you only show approximately \$23,000.00 in your joint account, and yet your testimony is that the \$4,000.00 was not joint account. I am asking you to reconcile that.

A. Yes, I know.

Q. Can you do that?

A. Well, this \$4,000.00, the bank book, you know, which was the book for the four thousand, Mr. Heidt left in the bank [136] to be fixed and I haven't got it back.

Q. Can you reconcile the difference between approximately \$23,000.00 and the \$27,000.00 referred to in the application for release of the tax lien?

A. Mr. Mahoney took care of all that, in Beverly Hills, he had all charge of that.

Q. You can't reconcile that?

A. Yes. I don't know. Mr. Mahoney had charge of all the taxes and everything.

Q. Do you recall at one time owning Lot 2, Block D of——

A. Is that the Rossmoyne Tract?

Q. I don't know.

A. I don't know. I had a lot in the Rossmoyne Tract, then I had a lot in Beverly Hills on Wilshire Boulevard.

(Testimony of Louise Seeley.)

Q. Would it help you any if I told you that this was valued at \$10,000.00 at the time of your husband's death?

A. It was sold though before he died, this lot. That Wilshire Boulevard lot was sold.

Q. Well, is this lot that I have described, Lot 2, Block B of Newhall and Lapere Subdivision, is that the Wilshire property you spoke about now?

A. Would that be on Wilshire Boulevard, what you have there?

Q. I am sorry, I don't know.

A. That is the only lot I know, except the lots in [137] Rossmoyne Park. There are seven lots in the Rossmoyne Tract, and that is the only lot I can figure out. I am making so many deals you can't remember.

Q. Do you recall owning, either individually or jointly with your husband, a piece of real property described as Lot 7 Dickson & Tenney Company's Subdivision?

A. That must be the Rossmoyne Tract, seven lots.

Q. About what was that worth?

A. A few hundred dollars apiece at the time.

Q. I have information that it was worth \$5,000.00.

A. It was traded in with the Chatsworth Ranch, all those lots.

Q. In whose name did this last property stand at the time of your husband's death?

A. The North Ridge Ranch was in my name.

(Testimony of Louise Seeley.)

Q. Then in addition to the real property which is reported in the estate tax return as jointly owned property, you did own considerable real property in your own name, is that correct?

A. Yes, I did.

Q. And I believe your testimony is that you also owned considerable personal property in your own name?

A. Yes, I did.

Q. Did you own, did you or your husband own 200 shares of United Chief Oil and Gas Company stock, certificate 792? [138].

A. That is on the Sante Fe Springs, is that it?

Q. In whose name was that stock held?

A. He bought it in my name and my daughter's name.

Q. That was either in your name or your daughter's name?

A. Both of us, both my daughter and myself.

Q. You say he bought it under. What do you mean by that?

A. It was put in the name but he put it right in, I gave him permission to do so. I gave him authority to do that.

Q. You say he. You mean Mr. Heidt?

A. Yes.

Q. Is that also true of the 100 shares of Elias Creek Oil Company stock?

A. He never got money out of it, so they are laying there, just laying there, whatever they are.

Q. Whose name is that in? A. Mine.

(Testimony of Louise Seeley.)

Mr. Melville: No more questions.

Mr. Clark: No more questions. That is all, Mrs. Heidt. [139]

* * * * *

Redirect Examination

By Mr. Clark:

Q. Mrs. Seeley, did you and your husband reside within the State of California at all times after you were married and until his death?

A. Always, right in Los Angeles.

Mr. Clark: That is all. Thank you very much.

* * * * *

The Court: Very well. Now, do you have any evidence, Mr. Melville?

Mr. Melville: Respondent rests. [141]

* * * * *

142

Form 706
TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE
(Revised October 1943)

ESTATE TAX RETURN

(To be executed and filed in duplicate)

Decedent's name JOSEPH E. HEIDT

Date of death November 22, 1942

Residence at time of death North Ridge, California

Citizenship at time of death Californian

THE TAX COURT OF THE U.S.

DIV. 11 COURT

ADMITTED IN EVIDENCE

JUN 21 1943

PETITIONER'S

EXHIBIT

RESPONDENT'S

GENERAL INSTRUCTIONS

(Space for use of collector)

RECEIVED

RECEIVED

ESTATE & GIFT TAX SEC.

JUN 14 1943

Coll. of Int. Rev.
6th Dist. Cal.

STATUTE AND GENERAL DESCRIPTION

Federal estate taxation under the Internal Revenue Code (chapter 2), applicable to estates of decedents dying on or after February 11, 1939, consists of, first, the basic estate tax (subchapter A), second, the additional estate tax (subchapter B), and, third, the defense tax (subchapter C, as added by the Revenue Act of 1940, and repealed by the Revenue Act of 1941—restricted to estates of decedents dying between June 25, 1940, and September 31, 1941). Prior estate tax statutes are applicable to the estates of decedents who died before February 11, 1939.

In the case of a citizen or resident of the United States, a specific exemption of \$100,000 is authorized for the purpose of the basic estate tax and one of \$40,000 is authorized for the purpose of the additional tax. No specific exemption is authorized if the decedent was a nonresident alien of the United States.

A credit is authorized against the basic estate tax (not in excess of 80 percent thereof) for estate, inheritance, legacy, or succession taxes paid a State, Territory, or the District of Columbia (or, if the decedent died after June 29, 1939, a possession of the United States). No credit is allowable against the additional estate tax for estate, inheritance, legacy, or succession taxes paid a State, Territory, the District of Columbia, or any possession of the United States.

Credits for Federal gift taxes are, under certain conditions and limitations, allowable against both the basic and the additional estate taxes.

The Federal estate tax is neither a property nor an inheritance tax. It is imposed upon the transfer of the entire net estate and not upon any particular legacy, devise, or distributive share. The relationship of the beneficiary to the decedent has no bearing on the question of liability or the extent thereof. The transfer of property is taxable although it occurs to the State for lack of heirs.

RETURN REQUIRED FOR ESTATE OF RESIDENT OR CITIZEN

A return on this form must be filed for the estate of every resident or citizen of the United States whose gross estate as defined by the statute exceeded \$40,000 in value at the date of death.

The value of the gross estate at the date of the decedent's death governs the liability for the filing of the return regardless of any valuation as of a subsequent time that may be adopted by the executor under the provisions of section 811 (j) of the Internal Revenue Code.

RETURN REQUIRED FOR ESTATE OF NONRESIDENT ALIEN

A return on this form is required for the estate of every nonresident alien decedent if any part of the gross estate was situated, within the meaning of the statute, in the United States. No specific exemption is authorized in the case of a nonresident alien.

TIME AND PLACE FOR FILING RETURN

The return is due 15 months after the date of the decedent's death. The return for the estate of a resident decedent must be filed with the collector in whose district the decedent had his domicile at the time of death. The return for the estate of a nonresident decedent must be filed with the collector in whose district the gross estate in the United States was situated; or, if the gross estate in the United States was situated in more than one district, or if in the case of a nonresident citizen no part of the gross estate was situated in the United States, it must be filed with the Collector for the second District of New York, or with such collector as the Commissioner may designate.

PAYMENT OF TAX

The tax is due 15 months after the date of the decedent's death, and must be paid within each period unless an extension of time for payment thereof has been granted by the Commissioner. Check or money order in payment of the tax should be made payable to "Collector of Internal Revenue at naming city and State in which is located the office of the collector with whom the return is filed."

GROSS ESTATE

In addition to property passing under a will or the intestate laws, the gross estate for the purpose of the estate tax includes, as more specifically explained hereinafter, certain transfers made during the decedent's life without an adequate and full consideration in money or money's worth, joint estates with right of survivorship, tenancies by the entirety, life insurance even though payable to beneficiaries other than the estate, property over which the decedent exercised a general power of appointment, and dower, curtesy, or statutory estate in lieu thereof, of the surviving spouse.

PROPERTY SITUATED IN THE UNITED STATES

In the case of the estate of a nonresident alien the statute reaches only property situated in the United States at the time of death, except that property transferred during the decedent's life and described under Schedule O is included if such property was situated in the United States either at the time of the transfer or at the time of death. The term "United States" when used in a geographical sense, includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia. Real estate and tangible personal property are situated in the United States if physically therein. Written evidences of intangible property which are treated as being the property itself, such as certificates of stocks or bonds, constitute property situated in the United States if physically situated therein. Stock of a domestic corporation, however, constitutes property within the United States, irrespective of where the certificates thereof are physically located. Intangible personal property the written evidences of which is not treated as being the property itself, such as a simple debt or open account, constitutes property within the United States if consisting of a property right issuing from or enforceable against a resident of the United States (an individual or a domestic corporation (public or private)). However, under an express provision of the statute (section 863 of the Internal Revenue Code), proceeds of insurance upon the life of a nonresident alien, and bank deposits of a nonresident alien who was not engaged in business in the United States at the time of his death, are not regarded as property situated in the United States.

SUPPLEMENTAL DOCUMENTS

If the decedent was a resident and died testate, two copies of the will, one of them certified, must be filed.

If the decedent was a nonresident citizen, the following documents must be filed with the return:

(1) A copy of the inventory of property and the schedule of liabilities, claims against the estate and expenses of administration filed with the foreign court of probate jurisdiction, certified by a proper official of such court.

(2) A copy of the return filed under the foreign inheritance, estate, legacy, succession tax, or other death duty act, certified by a proper official of the foreign tax department, if this estate is subject to such a foreign tax.

(3) If the decedent died testate, a certified copy of the will.

243

GENERAL INSTRUCTIONS—Continued

If the decedent was a nonresident alien, the following documents must be filed:

- (1) If deductions are claimed, certified copies of the inventory and schedule or a certified copy of the return, as described in the preceding subparagraphs (1) and (2).
- (2) If the decedent died testate, a certified copy of the will.

Other supplemental documents may be required as hereinafter explained under the instructions for the several schedules.

EXECUTION OF RETURN

This form consists of the cover sheets and 19 inside sheets numbered in consecutive order. A complete set should be used for every copy of the return required. For convenience in typing carbon copies the sets as issued may be readily separated and the corresponding sheets matched. When completed, each copy of the return to be filed must be permanently fastened together with all sheets in proper order. Any suitable type of paper fastener may be utilized for this purpose. Ordinary wire staples are recommended for the return of average size. The return must be filed in duplicate. All sheets provided, numbered 1 to XX1, must be included.

Write only on one side of each sheet of paper. If there is not sufficient space for all entries under any of the printed schedules, use additional sheets of the same size, and insert in the proper order in the return. All information required, as indicated under "General Information," must be supplied in the space provided. The questions asked under each schedule must be specifically answered, and if the decedent owned no property of any class specified for the schedule, the word "None" should be written across the schedule. The gross estate must be set forth under the appropriate Schedules A to I. The deductions, except amounts claimed for the specific exemptions and property previously taxed, should be shown under the appropriate Schedules J to N. The amounts deducted for the specific exemptions and property previously taxed should be shown under Schedules P and Q, or under Schedule R. If the gross estate of a resident or citizen exceeds \$100,000 the net estate for the basic tax should be computed under Schedule F. The net estate for the additional tax on the estate of a resident or citizen should be computed under Schedule Q. The net estate for a nonresident alien should be computed under Schedule R.

For every item of principal, any interest or rent accrued thereon at the date of the decedent's death and any outstanding dividends declared to stockholders of record on or before such date must be separately entered under the column headed, "Value at date of death"; and, if the optional valuation is adopted, any includible income with respect to each item of principal, as hereinafter explained, must be separately entered under the column headed "Value under option."

The items should be numbered under every schedule and a separate enumeration should be used for each schedule. The total for each schedule should be shown at the bottom of the schedule. The totals should not be carried forward from one schedule to another, but the total or totals for each schedule should be entered under the Recapitulation, Schedule O.

The information indicated by the columns headed "Subsequent valuation date" and "Value under option" should not be shown unless the executor adopts the optional valuation authorized by section 811 (j) of the Internal Revenue Code. If such optional valuation is not adopted the space in the columns headed "Subsequent valuation date" and "Value under option" may be utilized for descriptive matter, as indicated in the examples shown under the instructions for Schedules A and B. Similar information should be omitted in the space provided therefor under the Recapitulation, Schedule O, if the optional valuation is not adopted.

The computation of the tax must be shown in detail as indicated on sheet XX. If the executor determines no liability for tax, the word "None" should be shown at item 11 under "Computation of Tax."

The filing of this form will not be considered the filing of a complete return as required by the statute and the regulations issued pursuant thereto unless all the information as indicated herein is set forth.

If there is more than one executor or administrator, all must sign and swear to (or affirm) the return. The affidavit may be sworn to before any person authorized to administer oaths except the attorney or attorneys representing the taxpayer. If the officer has an official seal, such seal must be affixed.

If there is no executor or administrator appointed, qualified, and acting in the United States, every person in actual or constructive possession of any property of the decedent is constituted by the statute an executor for the purposes of the tax (section 930 (a) of the Internal Revenue Code), and is liable for the filing of the return.

If two or more persons are liable for the filing of the return, it is preferable for all to join in the filing of one complete return, but if they are unable to join in making one complete return, each is required to file a return disclosing all the information he has in the case, including the name of every person holding an interest in the property and a full description of such property. If the appointed, qualified, and acting executor or administrator is unable to make a complete return, the statute requires that every person holding an interest in the property shall, upon notice from the collector, make a return as to such interest.

The person or persons who file the return must, in every case, execute the first affidavit on sheet XX of both the original and duplicate copies. If the return is prepared by an attorney or agent for the person or persons filing this return, the second affidavit on sheet XX of both copies must also be executed, and executed only by such attorney or agent.

If the taxpayer desires to be represented by an attorney, by correspondence or otherwise, a power of attorney must be filed. For this purpose, Form 711, obtainable from any collector, may be executed.

VALUATION

Unless the executor elects otherwise at the time the return is filed, all property included in the gross estate must be valued as of the date of the decedent's death.

OPTIONAL VALUATION

If the executor elects to adopt the valuation authorized by section 811 (j) of the Internal Revenue Code, such election must be expressly indicated in the space provided under "General Information." The election cannot be exercised unless the return is filed within fifteen months after the decedent's death or within the period for filing the return as extended by the Commissioner or the collector under the authority of the law and regulations prescribed for such extensions.

In general, the object of section 811 (j) of the Internal Revenue Code is to make provision whereby the amount of tax otherwise payable may be lessened when, within the year following the decedent's death, the gross estate has suffered a shrinkage in its aggregate value.

The executor may, by an election duly made upon this return, have the property which was included in the gross estate on the date of the decedent's death valued as of the applicable dates, as follows:

- (1) Any property distributed, sold, exchanged, or otherwise disposed of within 1 year after the decedent's death, valued as of the date of such distribution, sale, exchange, or other disposition, whichever first occurs;

- (2) Any property not distributed, sold, exchanged, or otherwise disposed of within such 1-year period, valued as of the date 1 year after the date of the decedent's death;

- (3) Any property, interest, or estate which is "affected by mere lapse of time," valued as of the date of decedent's death; except that an adjustment is to be made for any difference in its value, not due to such lapse of time, as of the date 1 year after the date of decedent's death, or as of the date of its distribution, sale, exchange, or other disposition, whichever first occurs.

Property "distributed" is limited to distributions thereof by the executor, or by the trustee in the case of property included in the gross estate under subsections (c), (d), or (f) of section 811 of the Internal Revenue Code. (Subsections (e) and (g) pertain to certain transfers during the decedent's life and subsection (f) pertains to property passing under a general power of appointment.) Distribution may be effected by the entry of the order or decree of distribution, or if there is no such order or decree, by the segregation or separation of the property from the estate or the trust, or by the actual paying over or delivery of the property to the person entitled thereto by the will, or under the law, or by the terms of the trust.

The sale, exchange, or other disposition, to which the subdivisions refer, may be one made by the executor, or by the trustee of property included in the gross estate under subsections (d), (e), or (f) of section 811, or by any other person to whom the property had not been distributed by the executor or by such a trustee, or to whom it had not passed from the gross estate as the result of a sale, exchange, or other disposition thereof, as, for example, a sale, exchange, or other disposition by an heir, devisee, donee, or grantee to whom the decedent in his lifetime transferred the property, or by the survivor of the decedent if the property had been held by them subject to the right of survivorship.

Property in the case of a sale, exchange, or other disposition thereof within the 1-year period, is to be valued as of the date when it ceased to form a part of the gross estate, that is, the date when the title passes as the result of its sale, exchange, or other

24

TABLE FOR COMPUTATION OF ESTATE TAX

(A) Net estate equaling—	(B) Net estate not exceeding—	(1) For basic estate tax		(2) For additional estate tax (tentative tax— total gross basic and additional taxes) In effect prior to September 21, 1941		(3) For additional estate tax (tentative tax— total gross basic and additional taxes) In effect after September 20, 1941	
		Tax on amount in column (A)	Rate of tax on excess over amount in column (A)	Tax on amount in column (A)	Rate of tax on excess over amount in column (A)	Tax on amount in column (A)	Rate of tax on excess over amount in column (A)
			Percent		Percent		Percent
	\$5,000						
5,000	10,000	850	1		2		3
10,000	20,000	100	1	\$100	2	\$150	7
20,000	30,000	260	1	200	4	500	11
30,000	40,000	300	1	600	6	1,600	14
40,000	50,000	400	1	1,200	8	3,000	18
50,000	60,000	500	2	2,000	10	4,800	22
60,000	70,000	700	2	3,000	12	7,000	25
70,000	100,000	900	2	4,200	12	9,500	28
100,000	200,000	1,500	3	5,400	14	12,300	28
200,000	250,000	4,500	3	9,600	17	20,700	30
250,000	400,000	6,500	4	26,600	20	50,700	30
400,000	500,000	12,500	5	36,600	20	65,700	32
500,000	600,000	17,500	5	66,600	23	113,700	32
600,000	750,000	22,500	6	89,600	23	145,700	35
750,000	800,000	31,500	6	112,600	26	180,700	35
800,000	1,000,000	34,500	7	151,600	26	233,200	37
1,000,000	1,250,000	48,500	8	164,600	29	251,700	37
1,250,000	1,500,000	68,500	8	222,600	32	325,700	39
1,500,000	2,000,000	88,500	9	302,600	32	423,200	42
2,000,000	2,500,000	133,500	10	382,600	35	528,200	45
2,500,000	3,000,000	183,500	11	557,600	38	753,200	49
3,000,000	3,500,000	238,500	12	747,600	41	998,200	53
3,500,000	4,000,000	298,500	13	952,600	44	1,263,200	56
4,000,000	4,500,000	363,500	14	1,172,600	47	1,543,200	59
4,500,000	5,000,000	433,500	14	1,407,600	50	1,838,200	63
5,000,000	6,000,000	503,500	15	1,657,600	53	2,153,200	63
6,000,000	7,000,000	653,500	16	1,922,600	56	2,468,200	67
7,000,000	8,000,000	813,500	17	2,482,600	59	3,138,200	70
8,000,000	9,000,000	983,500	18	3,072,600	61	3,838,200	73
9,000,000	10,000,000	1,163,500	19	3,682,600	63	4,568,200	76
10,000,000	20,000,000	1,353,500	20	4,312,600	65	5,328,200	76
20,000,000	30,000,000	3,353,500	20	4,962,600	67	6,088,200	77
30,000,000		9,353,500	20	11,662,600	69	13,788,200	77
				32,362,600	70	36,888,200	77

145

(SPACE FOR USE OF BUREAU)

TAX ON RETURN OR DEFICIENCY	ASSIGNMENTS				PAYMENTS		
	Amount	List 1943	Page	Line	Date	Principal	Interest
<i>Returned</i>	<i>417.05</i>	<i>Aug</i>	<i>103</i>	<i>6</i>	<i>6-14-43</i>	<i>417.05</i>	

DETERMINATION BY BUREAU

11 4 ..

457

GENERAL INFORMATION

Decedent's name Joseph R. Heidt Date of death November 22, 1942
Residence (domicile) at date of death North Ridge, California
Year in which last domicile was established _____
Citizenship at date of death Californian
Place of death North Ridge, California
Cause of death and length of last illness Heart ailment

Names and addresses of decedent's physicians:
None

If decedent was confined in a hospital during his last illness, give name and address of hospital none

Date of birth Dec. 11th 1842 Place of birth Beaver Dam, Wisconsin
Business or occupation Retired
Business address _____
Married, single, separated, widowed, or divorced at date of death Married
Number of children None living

HEIRS, NEXT OF KIN, DEVISEES, AND LEGATEES

(If more than five, only the names of the five principal ones are required)

Name	Relationship	Address
<u>Louise Heidt</u>	<u>wife</u>	<u>Northridge, Calif. then</u> <u>745 S. Munson Ave., now</u> <u>L.A. Calif.</u>

Did decedent die testate? No
Were letters testamentary or of administration granted for this estate? No
Date granted _____
Name and location of court _____

To whom granted? (Explain if different from the person or persons filing return.) _____

Did the decedent at date of death own property in any State or country other than that of his last domicile? No
Place of ancillary probate proceedings, if any None

GENERAL INSTRUCTIONS—Continued

disposition. The terms "distributed," "sold," "exchanged," or otherwise disposed of," comprehend all possible ways by which property may be expended or passed from the gross estate.

The property to be valued as of 1 year after the date of decedent's death, or as of that date, or as of some intermediate date, in the property included in the gross estate on the date of the decedent's death. It will be necessary in every case first to determine which property constituted the gross estate at decedent's death.

Interest accrued to the date of the decedent's death on bonds, notes, and other interest-bearing obligations constitutes property of the gross estate on the date of his death and is to be included in the optional valuation. Interest accruing between the date of the decedent's death and the subsequent valuation date of the bond, note, or other obligation in which such interest pertains does not constitute property of the gross estate at the date of the decedent's death and is to be excluded from the optional valuation. However, any part payment of principal made after the date of the decedent's death and on or before the subsequent valuation date, or any advance payment of interest for a period after the subsequent valuation date of the principal which has the effect of reducing the value of the principal obligation as of the subsequent valuation date constitutes a part of the gross estate and is to be included in the optional valuation.

Rent accrued to the date of the decedent's death on leased realty or personally constitutes property of the gross estate on the date of his death and is to be included in the optional valuation. Rent accruing between the date of the decedent's death and the subsequent valuation date of the leased property does not constitute property of the gross estate at the date of the decedent's death and is to be excluded from the optional valuation. The principle stated above with respect to interest paid in advance also applies to advance payments of rent.

Outstanding dividends which were declared to stockholders of record on or before the date of the decedent's death constitute property of the gross estate on the date of his death and are to be included in the optional valuation. Ordinary dividends declared to stockholders of record after the date of the decedent's death do not constitute property of the gross estate at the date of his death and are to be excluded from the optional valuation. However, if dividends are declared to stockholders of record after the date of the decedent's death with the effect that the shares of stock at the subsequent valuation date do not reasonably represent the same property existing at the date of the decedent's death, such dividends are to be included in the optional valuation, except to the extent that such dividends are paid from earnings of the corporation after the date of the decedent's death.

Properties, interests, or estates which are affected by mere lapse of time include patents, estates for the life of another other than the decedent, remainders, reversions, and other like properties, interests, or estates. The phrase, "affected by mere lapse of time," has no reference to obligations for the payment of money, whether or not interest-bearing, the value of which changes with the passing of time. However, such an obligation, like any other property, may become affected by lapse of time when made the subject of a bequest or transfer which itself is creative of an interest or estate so affected.

The date of valuation of any property, interest, or estate so affected is, as prescribed in subsection (j), the date of decedent's death, but with an adjustment to be made of the value then obtaining, which adjustment, while disregarding any later increase or decrease in value due solely to lapse of time, adds to or subtracts from the value at death any difference between that value and the value as of the date 1 year after decedent's death, or the applicable intermediate date, if, and to the extent that, such difference was due to a cause or causes other than lapse of time. Accordingly, in the valuation of any property, interest, or estate affected by lapse of time, the difference between its value at decedent's death and its value as of the later date must be analyzed to determine the portion of such difference attributable to other cause or causes, and that portion only is to be applied in adjusting the value as of the date of the decedent's death. For further information and examples relative to the valuation of properties, interests, or estates which are affected by mere lapse of time, see the Estate Tax Regulations.

Deductions authorized under section 812 or section 901 of the Internal Revenue Code are limited to the extent that allowances thereof is not, in effect, given in the valuing of the gross estate. Property passing by decedent's will, or passing by a transfer made by the decedent in his lifetime (if the transfer was such as to require the property transferred to be included in the gross estate) to or for any such public, charitable, or religious uses as are described in section 812 (d) or 901 (a) (3) of the Internal Revenue Code, is deductible at its value as of the date of the decedent's death, subject, however, to adjustment for any difference in value 1 year after such death, or at the date of its sale or exchange. But no such adjustment may take into account any difference in value due to lapse of time or to the occurrence or nonoccurrence of a contingency.

The election applies to all the property included in the gross estate on the date of the decedent's death. It cannot be applied only to a portion of such property.

In every case where the election is exercised, the return must set forth (1) an itemized description of all property included in the gross estate on the date of the decedent's death together with the value of each item as of that date, (2) an itemized disclosure of all distributions, sales, exchanges, and other dispositions of such property during the 1-year period after the decedent's death, together with the dates thereof, and (3) the value of each item of property determined as hereinbefore explained and in accordance with the regulations issued pursuant to subsection (j). The foregoing information must be shown under the appropriate columns of each schedule. Under the column headed "Description" a brief statement for each item must be shown explaining the status or disposition governing the subsequent valuation date, such as, "Not disposed of within year following death," "Distributed," "Sold," "Bond paid on maturity," etc. Under this same heading a description of each item of principal and includible income must be entered separately. Under the heading "Subsequent valuation date," the applicable date for each separate entry of principal and includible income must be shown. Under the heading "Value under option" the amount of the principal and the amount of includible income must be separately shown. In the case of any interest or estate, the value of which is affected by mere lapse of time such as patents, leaseholds, estates pur autre vie, or remainder interests, the value shown under the heading "Value under option" must be the adjusted value, i. e., the value as of the date of death with an adjustment reflecting any difference in its value as of the later date not due to mere lapse of time. Under the heading "Value at date of death" the amount of the principal and the amount of includible income must be entered separately.

For examples illustrating the entry of the information required under the schedules, see the reverse of sheets III and V. While the examples there shown pertain to Schedules A and B, the information required under the other schedules should be set forth in a similar manner.

All the information indicated on this form must be supplied. Statements as to distributions, sales, exchanges, and other dispositions of the property within the 1-year period after the decedent's death must be supported by evidence. If the court issues an order of distribution during that period a certified copy of the order must be submitted as part of the evidence. The Commissioner may require the submission of such additional evidence as is deemed necessary.

PENALTIES

For penalties for failure to file return when due, keep records, and supply information, or for the preparation or presentation of the aiding or assisting in the preparation or presentation of a false or fraudulent return, affidavit, claim, or document, see the Estate Tax Regulations.

FURTHER INSTRUCTIONS

Detailed instructions pertaining to each schedule are included herein. For further information see the Estate Tax Regulations, a copy of which may be obtained from the Collector of Internal Revenue for your district.

GENERAL INFORMATION—Continued

Name and address of ancillary administrator or executor.....None

Did the decedent at the time of his death have a safe deposit box held either alone or in the joint names of himself and another?.....Yes (In joint tenancy with his wife)

If so, state location.....California Bank branch located at 9441 Wilshire Boulevard, Beverly Hills

If held jointly, give the name of the joint depositor and his relationship to the decedent.....Louise Heidt wife Now Louise Sealey

If the decedent had a safe deposit box at the time of his death indicate under what schedules in this return the contents are listed.....Schedule S

If any of the contents of the safe deposit box are omitted from the schedules, explain why.....

.....valueless

Did the undersigned person or persons filing return make diligent and careful search for property of every kind held by the decedent?.....Yes

Did the same undersigned make diligent and careful search for information as to any transfers of the value of \$5,000 or more made by the decedent during his lifetime without an adequate and full consideration in money or money worth?.....Yes

Name and address of attorney representing estate, if any.....Oliver J. Hickey 448 South Hill Street, Los Angeles, California

OPTIONAL VALUATION

Does the executor elect to have the gross estate of this decedent valued in accordance with values as of a date dates subsequent to the decedent's death as authorized by section 811 (j) of the Internal Revenue Code? (Answer "Yes" or "No.").....No

(Unless the answer to this question is "Yes", the property included in the gross estate must be valued as of the date of the decedent's death.)

43

INSTRUCTIONS FOR SCHEDULE A

REAL ESTATE

Real estate should be so described and identified that upon investigation by an Internal Revenue officer it may be readily located for inspection and valuation. For each parcel of real estate there should be given the area and, if the parcel is improved, a short statement of the character of the improvements. For city or town property state street and number, ward, subdivision, block and lot, etc. For rural property state township, range, landmarks, etc.

If any item of real estate is subject to a mortgage, the unpaid balance of the mortgage should be shown under "Description." The full value of the property and not the equity must be extended in the value column. The amount of the mortgage should be deducted under Schedule L of this return.

Real property which the decedent has contracted to purchase should be listed in this schedule. The full value of the property and not the equity must be extended in the value column. The unpaid portion of the purchase price should be deducted under Schedule L of this return.

The value of dower, curtesy, or a statutory estate created in lieu thereof, is taxable, and no reduction on account thereof or on account of homestead, or other exemptions should be made in returning the value of the real estate.

The basis for the returned values should be stated. If based upon appraisal a copy of such appraisal should either be attached to the return or retained in your files subject to inspection.

EXAMPLES SHOWING USE OF SCHEDULE A

Example where the optional valuation is not adopted; date of death, January 1, 1940

Item No.	Description	Subsequent valuation date	Value under option	Value at date of death
1	House and lot, 1921 William Street N.W., Washington, D. C. (lot 6, square 481). Rent of \$900 due at end of each quarter, February 1, May 1, August 1, and November 1. Value based on appraisal, copy of which is attached.....			\$30,000
	Rent due on item 1 for quarter ending November 1, 1939, but not collected at date of death.....			900
	Rent accrued on item 1 for November and December 1939.....			600
2	House and lot, 304 Jefferson Street, Alexandria, Va. (lot 18, square 40). Rent of \$100 payable monthly. Value based on appraisal, copy of which is attached.....			12,000
	Rent due on item 2 for December 1939, but not collected at date of death.....			100

Example where the optional valuation is adopted; date of death, January 1, 1940

Item No.	Description	Subsequent valuation date	Value under option	Value at date of death
1	House and lot, 1921 William Street N.W., Washington, D. C. (lot 6, square 481). Rent of \$900 due at end of each quarter, February 1, May 1, August 1, and November 1. Value based on appraisal, copy of which is attached. Not disposed of within year following death.....			\$30,000
	Rent due on item 1 for quarter ending November 1, 1939, but not collected until February 1, 1940.....	1/1/41	\$30,000	\$30,000
	Rent accrued on item 1 for November and December 1939, collected on February 1, 1940.....	2/1/40	900	900
		2/1/40	600	600
2	House and lot, 304 Jefferson Street, Alexandria, Va. (lot 18, square 40). Rent of \$100 payable monthly. Value based on appraisal, copy of which is attached. Property exchanged for farm on December 1, 1940.....			12,000
	Rent due on item 2 for December 1939, but not collected until February 1, 1940.....	12/1/40	10,000	12,000
		2/1/40	100	100

GROSS ESTATE

SCHEDULE A

REAL ESTATE

(See instructions on reverse of Sheet III)

Did the decedent, at the time of his death, own any real estate in the United States? (Answer "Yes" or "No.") Yes

Item No.	Description	Subsequent valuation date	Value under option	Value at date of death
	<i>Only his interest as a joint tenant in the real property shown in Schedule "E," and said interest was confirmed in the will at once upon his death.</i>		\$	\$
TOTAL (also enter under the Recapitulation, Schedule O).....			\$	\$

(If more space is needed, insert additional sheets of same size.)

51

INSTRUCTIONS FOR SCHEDULE B STOCKS AND BONDS

Description.—Description of stocks should indicate number of shares, whether common or preferred, issue, par value, price per share, exact name of corporation, and, if not listed on a stock exchange, the location of the principal business office and State in which incorporated and the date of incorporation. If listed, state principal exchange upon which sold. Description of bonds should include quantity and denomination, name of obligor, kind of bond, date of maturity, interest rate, and interest-due dates. State the exchange upon which listed, or if unlisted, the principal business office of the company.

Valuation.—In the case of stocks and bonds listed on a stock exchange the mean between the highest and lowest quoted selling prices on the valuation date shall be considered as the fair market value per share or bond. If there were no sales on the valuation date, such value shall be determined by taking the mean between the highest and lowest sales on the nearest date before and the nearest date after the valuation date (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the valuation date, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the valuation date. For example, assume that sales of stock nearest the valuation date (June 15) occurred 3 days before (June 13) and 3 days after (June 18) and that on such days the mean sale prices per share were \$10 and \$15, respectively. The price of \$12 shall be taken as representing the fair market value of a share of such stock as of the valuation date. If, however, on June 13 and 18 the mean sale prices per share were \$15 and \$10, respectively, the price of \$13 shall be taken as representing the fair market value of a share of such stock as of the valuation date. If the security was listed on more than one exchange, the records of the exchange where the security is principally dealt in should be employed. In valuing listed stocks and bonds the executor should observe care to consult accurate records to obtain values as of the applicable valuation date.

In the case of stocks and bonds which are not listed upon an exchange, but are dealt in through brokers, or have a market, the fair market value shall be determined by taking the mean between the highest and lowest selling prices as of the valuation date; or, if there were no sales on that date, such value shall be determined by taking the mean between the highest and lowest sales on the nearest date before and the nearest date after the valuation date (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the valuation date, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the valuation date. If quotations are obtained from brokers, or evidence as to the sale of securities is obtained from the officers of the issuing companies, the executor should preserve in his files the letters furnishing such quotations or evidence of sale for inspection when the return is verified by an investigating officer.

If actual sales are not available during a reasonable period beginning before and ending after the valuation date, the fair market value may be determined by taking the mean between the bona fide bid and asked prices on the nearest date before and the nearest date after the valuation date (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the valuation date, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the valuation date. If actual sale prices or quoted bona fide bid and asked prices are available on a date within a reasonable period prior to the valuation date, but if no actual sale prices or bona fide bid and asked prices are available on a date within a reasonable period after the valuation date, or vice versa, then the mean between such highest and lowest available sale prices or bid and asked prices may be taken as the value.

Inactive stock and stock in close corporations should be valued on the basis of the company's net worth, earning and dividend-paying capacity, and all relevant factors bearing on the value of the stock. Complete financial and other data upon which the estate bases its valuation should be submitted in duplicate with the return, including balance sheets (particularly the one nearest to the valuation date), and statements of the net earnings or operating results and dividends paid for each of the 5 years immediately preceding the valuation date.

Securities returned as of no value, nominal value or obsolete, should be listed last, and the address of the company and the State and date of the incorporation should be stated. Correspondence or statements used as the basis for return at no value should be retained for inspection.

Interest and dividends.—Interest and dividends must be shown separately as explained in the general instructions under "Execution of Return."

Estate of nonresident alien.—In the case of an estate of a nonresident alien of the United States, stocks or bonds of the following classes must be included hereunder: (1) Stocks of corporations organized in the United States, regardless of the situs of the certificates; (2) stocks of foreign corporations, if the stock certificates were physically situated in the United States at the time of the decedent's death; and (3) bonds of corporations, whether domestic or foreign, if physically situated in the United States at the time of death. For example, a share of stock of a corporation organized in the United States must be included for tax in the estate of a nonresident alien even though the stock certificate was in England; and a share of stock of a corporation organized in England must be included in his estate if the stock certificate was in the United States at the time of death.

Examples.—See examples showing the use of Schedule B which are printed on the back of Sheet V.

52

SCHEDULE B **STOCKS AND BONDS**

(See instructions on reverse of Sheet IV)

(1) Did the decedent, if a resident or citizen of the United States, own any stocks or bonds, regardless of situs, at the time of his death? (Answer "Yes" or "No.")**Yes**.....

(2) Did the decedent, if a nonresident alien of the United States, own, at the time of his death, any stocks or bonds situated in the United States as explained in the instructions? (Answer "Yes" or "No.")

Item No.	Description	Subsequent valuation date	Value under option	Value at date of death
	United States Liberty Bond <i>(Joint Tenancy Interest - see Schedule E)</i>		\$	\$ 2000.00
TOTAL (also enter under the Recapitulation, Schedule O)			\$	\$

(If more space is needed, insert additional sheets of same size)

ESTATE OF Joint tenancy Joseph E. Heidt, Deceased

10-10400-1

Sheet V

6-11

INSTRUCTIONS FOR SCHEDULE B—Continued

EXAMPLES SHOWING USE OF SCHEDULE B

Example where the optional valuation is not adopted; date of death, January 1, 1940

	Description	Subsequent valuation date	Value under option	Value at date of death
1	Sixty \$1,000 Arkansas Railroad Co. first mortgage 4-percent, 20-year bonds, due 1950. Interest payable quarterly on February 1, May 1, August 1, and November 1. New York Exchange at 100.....			\$60,000
	Interest coupons attached to bonds, item 1, due and payable on November 1, 1939, but not cashed at date of death.....			600
	Interest accrued on item 1, from November 1, 1939, to January 1, 1940.....			400
2	Five hundred shares Public Service Corporation, common, par \$100, at 110, ex dividend, New York Exchange.....			55,000
	Dividend on item 2 of \$2 per share declared December 10, 1939, payable on January 10, 1940, to holders of record on December 30, 1939.....			1,000

Example where the optional valuation is adopted; date of death, January 1, 1940

Item No.	Description	Subsequent valuation date	Value under option	Value at date of death
1	Sixty \$1,000 Arkansas Railroad Co. first mortgage 4-percent, 20-year bonds, due 1950. Interest payable quarterly on February 1, May 1, August 1, and November 1. New York Exchange at 100 on date of death.....			\$60,000
	Thirty of such \$1,000 bonds distributed to legatees on August 1, 1940. New York Exchange at 99.....	8/1/40	\$29,700	
	Thirty of such \$1,000 bonds sold by executors on September 1, 1940, at 99.....	9/1/40	29,700	
	Interest coupons attached to bonds, item 1, due and payable on November 1, 1939, but not cashed at date of death. Cashed by executor on February 1, 1940.....	2/1/40	600	600
	Interest accrued on item 1 from November 1, 1939, to January 1, 1940. Cashed by executor on February 1, 1940.....	2/1/40	400	400
2	Five hundred shares Public Service Corporation, common, par \$100. New York Exchange. At 110, ex dividend, on date of death. At 90 on January 1, 1941, not disposed of within year following death.....	1/1/41	45,000	55,000
	Dividend on item 2 of \$2 per share declared December 10, 1939, and paid on January 10, 1940, to holders of record on December 30, 1939.....	1/10/40	1,000	1,000

SCHEDULE C
MORTGAGES, NOTES, AND CASH

(See instructions on reverse of this sheet)

Did the decedent, at the time of his death, own any mortgages, notes, or cash? (Answer "Yes" or "No.") **Yes**

Item No.	Description	Subsequent valuation date	Value under option	Value at date of death
	See joint tenancy List of Property Schedule E		\$	\$
TOTAL (also enter under the Recapitulation, Schedule O).....			\$	\$

(If more space is needed, insert additional sheets at space star)

INSTRUCTIONS FOR SCHEDULE C

MORTGAGES, NOTES, AND CASH

The classes of property under this schedule should be listed separately in the order given.

Mortgages.—State (1) face value and unpaid balance, (2) date of mortgage, (3) date of maturity, (4) name of maker, (5) property mortgaged, and (6) interest dates and rate of interest. For example: Bond and mortgage for \$9,000, unpaid balance \$6,000; dated January 1, 1939, John Doe to Richard Roe; premises 22 Clinton Street, Newark, N. J., due January 1, 1942; interest payable at 6 percent per annum January 1 and July 1.

Notes, promissory.—Show similar data.

Contract by the decedent to sell land.—Show name of vendee, date of contract, description of property, sale price, initial payment,

amounts of installment payments, unpaid balance of principal and interest rate.

Cash in possession.—List separately from bank deposits.

Cash in bank.—State bank and address, amount in cash bank, serial number and nature of account, showing whether checking, savings, time deposit, etc. If statements are obtained from banks they should be retained for inspection by an Internal Revenue agent.

Estate of nonresident alien.—In the case of an estate of a non-resident alien of the United States a bank deposit is not includible in the gross estate if the decedent was not engaged in business in the United States at the time of his death. This special exemption is not applicable where the money is held in a custodian account or by the bank in the capacity of a trustee.

to—man:

56

SCHEDULE D

INSURANCE

(See instructions on reverse of this sheet)

(1) Was any insurance on life of decedent receivable by his estate? (Answer "Yes" or "No.") No

(2) Was any insurance on life of decedent receivable by beneficiaries other than the estate? (Answer "Yes" or "No.") No

Item No.	Description	Subsequent valuation date	Value under option	Value at date of death
			\$	\$
TOTAL			\$.....	\$.....
Less amount receivable by beneficiaries, other than the estate, not in excess of \$40,000.....			\$.....	\$.....
TOTAL INCLUDED (also enter under the Recapitalization, Schedule O).....			\$.....	\$.....

(If more space is needed, insert additional sheets of same size)

57

INSTRUCTIONS FOR SCHEDULE D INSURANCE

The term "insurance" refers to life insurance of every description, including death benefits paid by fraternal beneficial societies operating under the lodge system.

Life insurance not includible in the gross estate under the provisions of subsection (g) of section 81 of the Internal Revenue Code and the estate tax regulations pertaining thereto may, depending upon the facts of the particular case, be includible under some other subsection of section 81 and the applicable regulations, such as subsection (c) in the case of insurance "taken out" by the decedent on or prior to the date of Treasury Decision 5032 and also transferred by him on or prior to such date in contemplation of death.

INSURANCE IN FAVOR OF THE ESTATE

The full amount of the proceeds of insurance on the life of the decedent receivable by the executor or administrator, or otherwise payable to or for the benefit of the estate, should be included in the gross estate. Insurance in favor of the estate includes insurance effected to provide funds to meet the estate tax, and any other taxes, debts, or charges which are enforceable against the estate. The manner in which the policy is drawn is immaterial so long as there is an obligation, legally binding upon the beneficiary, to use the proceeds in payment of such taxes, debts, or charges. The full amount is so includible even though the premiums or other consideration wherewith the insurance was acquired may have been paid by a person other than the decedent. The special insurance exemption of \$40,000 is not applicable against the proceeds of insurance in favor of the estate.

INSURANCE RECEIVABLE BY BENEFICIARIES OTHER THAN THE ESTATE

Insurance taken out by the decedent on his own life and receivable by beneficiaries other than the estate is includible in the gross estate as hereinafter set forth.

Insurance receivable by beneficiaries other than the estate is considered to have been "taken out" by the decedent where he paid, either directly or indirectly, all the premiums or other consideration wherewith the insurance was acquired, whether or not he made the application. Such insurance is not considered to have been so "taken out," even though the application was made by the decedent, if no part of the premiums or other consideration was paid either directly or indirectly by him. Where a portion of the premiums or other consideration was actually paid by another and the remaining portion by the decedent, either directly or indirectly, such insurance is considered to have been "taken out" by the latter in the proportion that the payments therefor made by him bear to the total amount paid for the insurance.

Legal incidents of ownership in the policy include, for example, the right of the insured or his estate to its economic benefits, the power to change the beneficiary, to surrender or cancel the policy, to assign it, to revoke an assignment, to pledge it for a loan, or to obtain from the insurer a loan against the surrender value of the policy, etc. The insured possessed a legal incident of ownership if his death is necessary to terminate his interest in the insurance, as, for example, if the proceeds would become payable to his estate, or payable as he might direct, should the beneficiary predecease him. *Decedent dying on or before January 10, 1941.*—In case the decedent died on or before January 10, 1941, the date of Treasury Decision 5032, the amount in excess of \$40,000 of the aggregate proceeds of all insurance on the decedent's life not receivable by or for the benefit of his estate must be included in his gross estate to the extent to which such insurance was taken out (purchased or premiums paid) by the decedent and with respect to which the decedent possessed any of the legal incidents of ownership at the time of his death.

Decedent dying after January 10, 1941.—In case the decedent died after January 10, 1941, the date of Treasury Decision 5032, the amount in excess of \$40,000 of the aggregate proceeds of all insurance on the decedent's life not receivable by or for the benefit of his estate must be included in his gross estate as follows:

(1) To the extent to which such insurance was "taken out" (purchased or premiums paid) by the decedent on or before January 10, 1941, and with respect to which the decedent possessed any of the legal incidents of ownership at any time after such date, and

(2) To the extent to which such insurance was "taken out" (purchased or premiums paid) by the decedent after January 10, 1941, regardless of whether he possessed any of the legal incidents of ownership therein at any time.

The estate is entitled to only one exemption of \$40,000 upon insurance receivable by beneficiaries other than the estate. For instance, if the decedent left life insurance otherwise includible in the gross estate and payable to three such beneficiaries in amounts of \$10,000, \$40,000, and \$50,000 (total, \$100,000), the full amount should be listed in the schedule and therefrom subtracted the \$40,000 exemption in the space provided thereon. The word "beneficiaries," as used in reference to this \$40,000 exemption, means persons entitled to the actual enjoyment of the insurance money.

Example: Insurance on the life of the decedent who died after January 10, 1941, the date of Treasury Decision 5032, totaled \$200,000. It was payable to his son as beneficiary and the decedent never possessed any of the legal incidents of ownership therein. Premiums aggregating \$100,000 were paid for the insurance, of which the decedent paid \$50,000 before the date of Treasury Decision 5032 and \$50,000 after that date. The remaining premiums of \$50,000 were paid by the son. The extent to which the insurance was "taken out" by the decedent after the date of the Treasury decision is the proportion of \$200,000 that the amount of the premiums paid by him after such date, \$50,000, bears to the total amount of the premiums paid for the insurance, \$100,000. Such proportion is three-tenths of \$200,000, or \$60,000. As the decedent possessed none of the legal incidents of ownership in the insurance at any time after the date of the Treasury decision, \$100,000 of the insurance, the extent to which it was "taken out" by the decedent before such date ($\frac{50,000}{100,000} \times \$200,000$), is excluded from the gross estate. The amount of \$40,000, the extent to which the insurance was not "taken out" by the decedent ($\frac{20,000}{100,000} \times \$200,000$), is also excluded from the gross estate. The amount of the insurance "taken out" by the decedent after the date of the Treasury decision, \$60,000, is reduced by \$40,000, the special insurance exemption, and the amount of the insurance included in the gross estate is \$20,000.

EXECUTION OF SCHEDULE

Insurance payable to the estate should be listed first and the full amount entered in the fourth or fifth column. Immediately following should be disclosed under the second column headed "Description," all insurance payable to beneficiaries other than the estate whether or not the executor believes the insurance is includible before deduction of the special insurance exemption of \$40,000. If the executor determines that the full amount of the proceeds of any policy payable to beneficiaries other than the estate is includible before deduction of the insurance exemption, the full amount should also be entered in the fourth or fifth column. If the executor determines with respect to any policy that the entire proceeds are not so includible in accordance with instructions above, and enters no amount or an amount less than the full proceeds, a complete explanation of his determination, including a computation of the amount included, if any, should be submitted either on the schedule or in a separate statement attached. A photostatic copy of any such policy should also be filed with the return.

Deduction may be taken in the space provided near the bottom of the schedule equal to the amount of the proceeds of insurance receivable by beneficiaries other than the estate and included in the fourth or fifth column, but not exceeding \$40,000. In describing a policy, state name of company, number of policy, and name of beneficiary.

The "Life Insurance Statement," Form 712, for each policy listed in the schedule should be obtained from the insurance company by the executor and filed with the return.

ESTATE OF NONRESIDENT ALIEN

In the case of an estate of a nonresident alien of the United States, the proceeds of insurance on his life need not be included.

20-16

158

COMMISSIONER OF INTERNAL REVENUE

TREASURY DEPARTMENT

WASHINGTON, D. C.

AFFIDAVIT OF LOUISE HEIDT SEELEY, FORMERLYLOUISE HEIDT, IN RE HER CONTRIBUTION TO
PROPERTIES HELD IN JOINT TENANCY.

STATE OF CALIFORNIA,)
COUNTY OF LOS ANGELES. } SS.

LOUISE HEIDT SEELEY (formerly Louise Heidt), being first
duly sworn, deposes and says:

That she is the widow of Joseph H. Heidt who died on
November 22, 1942 at North Ridge in Los Angeles County, California,
and that the facts herein stated are known to her.

That the properties, both real and personal, set forth in
the Estate Tax Return to which this affidavit is attached, except-
ing Lot 24 of Sunset Park Tract in the City of Los Angeles, being
a part of subdivision 3 of Schedule E hereof, and excepting the
property described in subdivision 5 of Schedule E hereof, were
acquired by affiant and said decedent subsequent to January 1, 1928
and that the full considerations paid therefor, or from which said
properties resulted, consisted of the separate estate of affiant
and of the community property of affiant and said decedent. That
said Lot 24 of said Sunset Park Tract, was acquired by said decedent
and affiant during the month of December 1920, as joint tenants,
and that more than one-half of the cost thereof was contributed by
affiant from her own separate property. That said property des-
cribed in subdivision 5 of said Schedule E was acquired during the
month of October 1906 by affiant, as her sole and separate property
and as her separate estate, and that said property remained her sole
and separate estate until it was sold and a trust deed was taken in

the name of said decedent and affiant as joint tenants, as set forth in subdivision 5 of said Schedule E.

That more than one-half of the total consideration paid for said properties, and from which said properties resulted, was contributed by affiant from her separate estate and from her one-half interest in the accumulations of the community earnings after December 31, 1927 of said decedent and affiant, within the State of California. That by reason of affiant's contributions to the acquisition of said properties as aforesaid, the gross estate reportable for the purpose of determination and payment of the federal tax is as follows:

Parcel 1 ($\frac{1}{2}$ of \$30,000)	\$ 15,000.00
Parcel 2 ($\frac{1}{2}$ of \$55,000)	27,500.00
Parcel 3 ($\frac{1}{2}$ of \$18,000)	9,000.00
Parcel 4 ($\frac{1}{2}$ of \$11,000)	5,500.00
Parcel 5 (affiant contributed all of the purchase price from her separate estate)	- - -
Parcel 6 ($\frac{1}{2}$ of \$21,951.37)	10,975.58
Parcel 7 ($\frac{1}{2}$ of \$1,409.02)	704.51
Parcel 8 ($\frac{1}{2}$ of \$2,000)	<u>1,000.00</u>
	\$ 69,680.09

DATED: June 10th, 1943.

Laura Rudolph Seely

Subscribed and sworn to before me
(this 10th day of June, 1943.)
David L. Lally
Notary Public in and for said
County and State.

SCHEDULE I

1.

That portion of the southwest quarter of section 14, Township Two (2) North, Range Sixteen (16) West Rancho Ex-Mission de San Fernando, described as follows:

Beginning at a point in the west line of said Southwest Quarter of Section Fourteen (14) at the intersection of said West line of said Southwest Quarter of section fourteen (14) at the intersection of said West line with a line parallel with the distant Northerly Nineteen Hundred Eighty Feet (1980) at Right Angles from the North Line of Lassen Street, Thirty Feet (30) wide; thence North along said West Line Six Hundred and Sixty feet (660), more or less, to the Northwest corner of said Southwest Quarter of Section Fourteen (14); thence East along the North line of said Southwest Quarter of Section 14, a distance of Seven Hundred Ninety-two (792) feet; thence South parallel with said West line, 660 feet, more or less, to the intersection with the aforementioned parallel line distant 1980 feet northerly from the North line of Lassen Street; thence West along said last mentioned parallel line 792 feet to the point of beginning, wherein David C. Brown conveyed said above real property to J. H. Heidt sometimes known as Joseph H. Heidt and to Louise Heidt, as joint tenants, which deed was recorded in Book 18479, at Page 222, on the 19th day of June, 1941, in the office of the County Recorder of Los Angeles County, California.

This property has been sold for cash since November 22, 1942, at the price of \$30,000.00. *Decedent's one-half interest \$15,000.00*

2.

Lots Fifty-three (53) and Fifty-four (54) of Tract Numbered 4464, City of Los Angeles, California, as per Map recorded in Book 48, Page 51 of Maps in the office of the County Recorder of Los Angeles, State of California.

This property has been sold for cash since November 22, 1942, at the price of \$55,000.00. *Decedent's one-half interest \$27,500.00*

3.

Lots Twenty-four (24) and Twenty-five (25) of Sunset Park Tract in the City of Los Angeles, County of Los Angeles, State of California, as per Map recorded in Book 6, Page 69, in the office of the County Recorder of Los Angeles County, State of California.

This property has been sold for cash since November 22, 1942, at the price of \$18,000.00. *Decedent's one-half interest \$9,000.00*

61

4.

Lot Eighty-six (86), Tract 7710, Beverly Hills, as per Book 83, Pages 94 and 95 of Maps, Records of County of Los Angeles, State of California.

This property has been sold for cash since November 22, 1942, at the price of \$11,000.00. *Decedent's one-half interest \$5,500.00*

5.

Promissory note given by Michi Katsuhaya, a maker, for the sum of \$16,000.00 given at Beverly Hills, California, on October 14, 1936, payable to Joseph H. Heidt and Louise Heidt as joint tenants the beneficiaries, and secured by a trust deed recorded in Book 14598, Page 69 of Official Records of Los Angeles County, California, on lands described as Southwest 12.5 feet of Lot 39 and all of Lot 40 in Block 24 of Wolfskill Orchard Tract, City of Los Angeles as per Map recorded in Book 30, Pages 9 to 13 of Miscellaneous Records and the California Trust Company appears as trustee upon which there is a balance due of \$7,362.05. *(Decedent furnished nothing toward the requirements of this item)*

6.

Monies held in the Bank of America, held in joint tenancy, in the names of Joseph H. Heidt and Louise Heidt, on November 22, 1942, in the sum of \$21,951.37
Bank of America Branch located at Wilshire and Dunsmuir,
Los Angeles, California. *Decedent's one-half interest \$10,975.58*

7.

Monies in a Checking Account in the California Bank, Branch located at 9441 Wilshire Boulevard, Beverly Hills, California, held in joint tenancy in the names of Joseph H. Heidt and Louise Heidt, on November 22, 1942, in the sum of \$1,409.00
Decedent's one-half interest \$704.51

8.

20 (Twenty) United States Defense Bonds of par value of . \$2,000.00
Decedent's one-half interest \$1,000.00

One - 26

SCHEDULE E
JOINTLY OWNED PROPERTY

(See instructions on reverse of this sheet)

(1) Did the decedent, at the time of his death, own any property as a joint tenant or as a tenant by the entireties with right of survivorship? (Answer "Yes" or "No.") Yes

(2) If so, state the name and address of each surviving cotenant.

Louise Heidt now Louisa Sealey

Item No.	Description	Subsequent valuation date	Value under option	Value at date of death
			\$	\$
TOTAL (also enter under the Recapitulation, Schedule O)			\$	\$

(If more space is needed, insert additional sheets of same size)

83

INSTRUCTIONS FOR SCHEDULE E

JOINTLY OWNED PROPERTY

All property of whatever kind or character, whether real estate, personal property, bank accounts, etc., in which the decedent held at the time of his death an interest either as a joint tenant or as a tenant by the entirety, with right of survivorship, must be disclosed under this schedule.

The full value of the property must be included in the gross estate, unless it can be shown that a part of the property originally belonged to the other tenant or tenants and was never received or acquired by the other tenant or tenants from the decedent for less than an adequate and full consideration in money or money's worth. Where it is shown that the property or any part thereof, or any part of the consideration with which the property was purchased, was acquired by the other tenant or tenants from the decedent for less than an adequate and full consideration in money or money's worth, there should be omitted only so much of the value of the property as is proportionate to the consideration furnished by such other tenant or tenants. For the purposes of the estate tax, a relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, is not to any extent a consideration in money or money's worth.

Where the property was acquired by gift, bequest, devise, or inheritance by the decedent and spouse as tenants by the entirety, then only one-half of the value of the property should be included. Where the property was acquired by the decedent and another

person or persons by gift, bequest, devise, or inheritance as tenants, and their interests are not otherwise specified or fixed by law, then there should be included only such fractional part of the value of the property as is obtained by dividing the full value of the property by the number of joint tenants.

If the executor contends that less than the value of the property is includible in the gross estate for purposes of the estate tax, the burden is upon him to show his right to include such value, and in such case he should make proof of the extent, character, and nature of the decedent's interest and the interest of the decedent's cotenant or cotenants.

In every instance a statement under the column headed "Description" must disclose whether the whole or only a part of the property is included in the gross estate. If only a part of the property is included in the gross estate, the fair market value of the whole must be shown under "Description."

Property in which the decedent held an interest as a tenant in common should not be listed under this schedule, but the value of his interest therein should be returned under Schedule A, if real estate, or if personal property, under such other appropriate schedule. The decedent's interest in a partnership should not be included under this schedule, but should be shown under Schedule "Other miscellaneous property."

84

SCHEDULE F **OTHER MISCELLANEOUS PROPERTY**

(See instructions on reverse of this sheet)

(1) Did the decedent, at the time of his death, own any interest in a copartnership or unincorporated business?
(Answer "Yes" or "No.") No

(2) Did the decedent, at the time of his death, own any miscellaneous property not returnable under any other schedule? (Answer "Yes" or "No.")

Item No.	Description	Subsequent valuation date	Value under option	Value at date of death
			\$	\$
TOTAL (also enter under the Recapitulation, Schedule O)			\$	\$

(If more space is needed, insert additional sheets of same size)

ESTATE OF Joint tenancy Joseph W. Keith, Deceased

10-10220-1

Sheet IX

a-23

56

INSTRUCTIONS FOR SCHEDULE F OTHER MISCELLANEOUS PROPERTY

Under this schedule list all items of the gross estate not returnable under any other schedule, such as the following: Debts due the decedent; interests in business; claims; rights; royalties; pensions; household; judgments; shares in trust funds; household goods and personal effects, including wearing apparel; farm products and growing crops; livestock; farm machinery; automobiles; etc.

When an interest in a copartnership or unincorporated business is returned, submit in duplicate statements of assets and liabilities as of the valuation date and for the 5 years preceding, and statements of the net earnings for the same 5 years. Good will must be accounted for. In general, the same information should be fur-

nished and the same methods followed as in valuing close corporations.

In case of an interest in a trust fund, duplicate copies of the trust instrument should be submitted.

In describing an annuity, the name and address of the grantor of the annuity should be given, or if payable out of a trust or other fund, such a description as will fully identify it. If payable for a term of years, the duration of the term and the date on which it began should be given, and if payable for the life of a person other than the decedent, the date of birth of such person should be stated.

18-19465

a-24

24

(See instructions on reverse of this sheet)

(2) Did the decedent, within 2 years immediately preceding his death, make any transfer of a material part of his property without an adequate and full consideration in money or money's worth? (Answer "Yes" or "No.") None

(3) Did the decedent, at any time, make a transfer of an amount of \$5,000 or more without an adequate and full consideration in money or money's worth, but not believed to be includible in the gross estate as indicated in the first paragraph (including the six subparagraphs) of the instructions for this schedule? (Answer "Yes" or "No.") No.

(4) If the answer to question (3) is "Yes" state date, amount or value, character of transfer, and motive which actuated the decedent in making the transfer:

(5) Were there in existence at the time of the decedent's death any trusts created by him during his lifetime?
(Answer "Yes" or "No.") No

TOTAL (also enter under the Recapitulation, Schedule O)

(If more space is needed, insert additional sheets of same size.)

INSTRUCTIONS FOR SCHEDULE G

TRANSFERS DURING DECEDENT'S LIFE

In accordance with the provisions of subsections (c) and (d) of section 811 of the Internal Revenue Code, the following transfers made by the decedent during his life, by trust or otherwise, other than bona fide sales for an adequate and full consideration in money or money's worth, are subject to the tax, and must be included in the gross estate under this schedule.

(1) Transfers made after September 8, 1916, in contemplation of death.

(2) Transfers intended to take effect in possession or enjoyment at or after the decedent's death, or transfers contingent upon the decedent's death, i. e., where the decedent's death is a necessary condition to effect an indefeasible transfer of the property from him or his estate. For certain exceptions with respect to such transfers, see the Estate Tax Regulations.

(3) Transfers made after 10:30 p. m., eastern standard time, March 3, 1931, whereby the decedent retained the use, possession, right to the income, or other enjoyment of the transferred property for his life, or for such a period as to evidence his intention that it should extend at least for the duration of his life and his death occurs before the expiration of such period, or, except with respect to transfers made before 5 p. m., eastern standard time, June 6, 1932, for any period not ascertainable without reference to his death.

(4) Transfers (not otherwise includible) whereby the decedent retained the right to designate the person or persons who shall possess or enjoy the transferred property, or the income thereof, as follows:

(a) In case the transfer was made after 10:30 p. m., eastern standard time, March 3, 1931, and the right to so designate was retained by the decedent alone, for his life, or for such a period as to evidence his intention that it should extend at least for the duration of his life and his death occurs before the expiration of such period, or

(b) In case the transfer was made after 5 p. m., eastern standard time, June 6, 1932, and the right to so designate was retained by the decedent alone or in conjunction with any other person or persons, for decedent's life, or for such a period as to evidence his intention that it should extend at least for the duration of his life and his death occurs before the expiration of such period, or for any period not ascertainable without reference to his death.

(5) Transfers whereby the enjoyment of the transferred property was subject at decedent's death to any change through the exercise of a power to alter, amend, revoke, or terminate, as follows:

(a) In case the transfer was made before 4:01 p. m., eastern standard time, June 2, 1924, and the power was reserved at the time of the transfer and was exercisable by the decedent alone or in conjunction with a person having no substantial adverse interest in the transferred property,

(b) In case the transfer was made after 4:01 p. m., eastern standard time, June 2, 1924, and before June 23, 1936, and the power was reserved at the time of the transfer and was exercisable by the decedent alone or in conjunction with any person (regardless of whether such person had a substantial adverse interest in the transferred property), or

(c) In case the transfer was made after June 22, 1936, regardless of whether the power was reserved at the time of the transfer or later created or conferred, and without regard to the source from which the power was acquired, regardless of whether the power was exercisable by the decedent alone or in conjunction with any person, and if in conjunction with any person, regardless of whether such person had a substantial adverse interest in the transferred property.

(6) Transfers effected after September 8, 1916, by the relinquishment in contemplation of death of his power to alter, amend, revoke, or terminate a transfer of property previously made by the decedent under conditions set forth in the preceding subparagraph (5).

For more detailed information, see the Estate Tax Regulations.

Transfers included in the gross estate should be valued as of the date of the decedent's death or, if the optional valuation is adopted, in accordance with subsection 811 (j) of the Internal Revenue Code. If only a portion of the property is so transferred as to come within the terms of the statute, only a corresponding proportion of the value of the property should be included in the value of the gross estate. If the transferee makes additions to the property, or betterments, the enhanced value of the property at the valuation date, due to such additions or betterments, should not be included. However, where only a portion of the value of the property is included, the value of the whole must be disclosed under the column headed "Description," together with an explanation of the proportionate inclusion.

To constitute a bona fide sale for an adequate and full consideration in money or money's worth, it must have been made in good faith, and the price must have been an adequate and full equivalent and reducible to a money value. If the price was less than an adequate and full equivalent, only the excess of the fair market value of the property, as of the valuation date, over the price received by the decedent should be included in the gross estate. For the purpose of the estate tax the relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, is not to any extent a consideration in money or money's worth.

All transfers made by the decedent during his life of an amount of \$5,000 or more except bona fide sales for an adequate and full consideration in money or money's worth, must be disclosed in the return, whether the executor regards such transfers as subject to the tax or not. If the executor believes that such a transfer is not subject to the tax a statement of the pertinent facts should be made. In case a transfer, by trust or otherwise, was made by a written instrument, duplicate copies thereof must be filed with the return. If of public record, one of the copies should be certified; if not of record, one copy should be verified. If the decedent was a non-resident, only one copy need be filed, certified or verified, as the case may be.

The name of the transferee, date and form of transfer, and a complete description of the property should be set forth in this schedule. Rents and other income must be included as explained under "Execution of Return" in the general instructions.

Nonresident alien.—If the decedent was a nonresident alien the transfer must be included if the property was situated in the United States, either at the date of the decedent's death or at the date of the transfer.

(The instructions on reverse of this sheet)

(2) Did the decedent, at any time, by will or otherwise, exercise a limited power of appointment? (Answer "Yes" or "No.") No

TOTAL (also enter under the Recapitulation, Schedule O)

If more space is needed, insert additional sheets of same size.

INSTRUCTIONS FOR SCHEDULE H

POWERS OF APPOINTMENT

In accordance with subsection (f) of section 811 of the Internal Revenue Code, property passing under a general power of appointment must be included in the gross estate under this schedule if exercised by the decedent (A) by will, or (B) by deed resulting in any of the transfers described in subparagraphs (1), (2), (3), and (4) of the first paragraph of the instructions for Schedule G; except in case of a bona fide sale for an adequate and full consideration in money or money's worth.

If the power is exercised for a consideration in money or money's worth, but is not a bona fide sale for an adequate and full consideration in money or money's worth, there should be included in the gross estate only the excess of the fair market value, at the applicable valuation date, of the property passing under the power over the value of the consideration received by the decedent.

Only property passing under a general power should be included. A general power is one to appoint to any person or persons in the discretion of the donee (or appointor) of the power, or, however limited as to the persons or objects in whose favor the appointment may be made, if it is exercisable in favor of the donee, his estate, or his creditors.

Duplicate copies of the instrument granting the power and of the instrument by which the power was exercised, one of each to be certified or verified, must be filed with the return, unless the decedent was a nonresident, in which case only one copy of each instrument, certified or verified, is required. The copies must be filed even though it is contended that the power was a limited one and the property passing thereunder is not returned for tax.

SCHEDULE F PROPERTY PREVIOUSLY TAXED

(See instructions on reverse of this sheet)

Name of donor or prior decedent If a decedent, show date of death
 If a donor, show date of gift Residence of donor at time of gift, or of prior decedent at time of death

Item No.	Description of property, subsequent valuation date, and description and amount of mortgage or other liens paid	(Column A) Value under option	(Column B) Amount under option	(Column C) Value at date of death	(Column D) Income earned at date of death	(Column E) Proportionately determined in prior estate or gift
	None	\$	\$	\$	\$	\$
Totals		\$	\$	\$	\$	\$

Total included in gross estate (total of columns A and B, or total of columns C and D, whichever is applicable) (also enter under Reacquisition, Schedule O) .. \$

(a) Gross deduction (total of applicable column A or C, or total of column E, whichever is lower) .. \$

(b) Total amount paid on mortgages or other liens deducted in prior estate or gift (enter detailed information at bottom of column headed "Description") .. \$

(c) Deduction for property previously taxed without proportionate reduction (item (a) minus item (b)) (also enter under Schedule P and Q, or Schedule R) .. \$

(If more space is needed, insert additional sheets of same form)

Transfer or John Stanley Joseph H. Heldt, Decedent

INSTRUCTIONS FOR SCHEDULE I

PROPERTY PREVIOUSLY TAXED

Property includible in the gross estate that was received from a person who died within 5 years prior to the decedent's death or received by gift within 5 years prior to the decedent's death, or acquired in exchange therefor, with respect to which a deduction is authorized because an estate tax was paid by the prior estate or a gift tax was paid by the donor, should be returned in this schedule. The deduction for such property is authorized under the provisions of section 812 (c) or section 861 (a) (2) of the Internal Revenue Code, in accordance with the following conditions and limitations:

(a) Conditions:

- (1) The property must have been received by the decedent by gift, bequest, devise, or inheritance from a prior decedent who died within 5 years of the decedent's death, or received by him as a gift within 5 years of his death.
- (2) The property must be identified either as the same which the decedent so received or as property acquired in exchange therefor.
- (3) The property so received must have formed a part of the gross estate situated in the United States of such prior decedent, or have been included in the total amount of gifts of the donor.

(4) An estate tax by or on behalf of the estate of such prior decedent, or a gift tax by or on behalf of the donor, must have actually been paid (the mere filing of a return for such estate or donor not being sufficient).

(5) No such deduction, in respect to the property or property exchanged therefor, must have been allowable in determining the value of the net estate of the prior decedent.

(b) Limitations:

(1) The deduction is limited to the aggregate value of the property as finally determined in the case of the prior decedent or donor, or to the aggregate value of such property included in the value of the gross estate of the prior decedent, whichever is lower.

(2) The deduction, as limited in (1), is reduced by the total amount paid prior to the decedent's death on any mortgage or other lien on the property previously taxed, provided such mortgage or other lien was deducted in determining the estate tax of the prior decedent or the gift tax of the donor.

(3) The deduction is further reduced by the proportion of the total other deductions (allowable under Schedules J, K, L, M, and N, and the specific exemption if applicable) which the amount otherwise deductible for property previously taxed bears to the amount of the gross estate.

The value of each item of property and any income thereon determined as of the applicable date or dates for inclusion in the value of the gross estate of the present decedent should be entered under the appropriate columns A, B, C, and D. It will be noted that column A is provided for the value under the option of the principal of each item of property and column B for any income thereon under the option, and that column C is provided for the value at the date of the decedent's death of the principal of each item of property, and column D is provided for any income thereon accrued to the date of death. The value finally determined in the prior estate or gift of each item of property should be entered in column E.

The description should show the schedule and item number of the property as it appeared in the prior return. To make it clear that the schedule and item number relate to the prior return, they should be included in parentheses. If only a portion of an item in the prior estate is reflected in the present estate, that fact should be indicated and only a proportionate part of the value of the item in the prior estate, as finally determined, should be entered in column E.

In accordance with the foregoing second limitation, any amount paid before the death of the present decedent in discharge of a mortgage or other lien on the property previously taxed, provided such mortgage or other lien was deducted in the prior case, should be shown last under the column headed "Description," together with an identification of the item of property involved and the item deducted in the prior case. The total of such amounts paid should be entered at item (b).

It will be noted that the "Total included in gross estate" (included in the value of the gross estate utilized for the computation of the tax) is the total of columns A and B if the optional valuation is adopted, or the total of columns C and D if the optional valuation is not adopted. However, if the optional valuation is adopted, both such totals should be entered under the appropriate columns under the Recapitulation, Schedule O.

The amount of the gross deduction for property previously taxed, in accordance with the first limitation, is entered at item (a). If the optional valuation is adopted, the amount of the gross deduction is the total of column A or the total of column E, whichever is the lower. If the optional valuation is not adopted, the amount of the gross deduction is the total of column C or the total of column E, whichever is the lower. The amount of item (b) is subtracted from the amount of item (a); and the difference, which is entered at item (c), is the amount of the deduction as reduced in accordance with the second limitation. The amount of the net deduction for property previously taxed, as reduced by a certain proportion of the total other deductions in accordance with the third limitation, is finally computed under Schedules P and Q or under Schedule R.

72

DEDUCTIONS
SCHEDULE J
FUNERAL AND ADMINISTRATION EXPENSES

(See instructions on reverse of this sheet)

Item No.	Funeral expenses	Amount
	To Forest Lawn Memorial Park Association for Burial expenses	\$ 365.08
TOTAL (also enter under the Recapitulation, Schedule O)		\$
Amount of executors' commissions (also enter under the Recapitulation, Schedule O) Estimated/agreed upon/paid. (Strike out words not applicable.) <i>none</i>		\$
Amount of attorneys' fees (also enter under the Recapitulation, Schedule O) Estimated/agreed upon/paid. (Strike out words not applicable.) <i>none</i>		\$
		<i>except as below</i>
Item No.	Miscellaneous administration expenses	Amount
	A) Oliver M. Hickey, Attorney To legal services in terminating joint tenancy held by decedent and his wife, Louise Heidt in Superior Court of the State of California, in and for the County of Los Angeles	250.00
	B) To legal services in connection with preparing and attending to this Estate's Tax return under Internal Revenue Code.	250.00
TOTAL (also enter under the Recapitulation, Schedule O)		\$ 500.00

(If more space is needed, insert additional sheets of same size)

ESTATE OF Joint tenancy Joseph H. Heidt, Deceased

INSTRUCTIONS FOR SCHEDULE . FUNERAL AND ADMINISTRATION EXPENSES

Funeral expenses and administration expenses should be itemized, giving names and addresses of persons to whom payable, and exact nature of the particular expense. An item may be entered for deduction though the exact amount is not known at the time, provided it is ascertainable with reasonable certainty, and will be paid. No deduction may be taken upon the basis of a vague or uncertain estimate. Preserve all vouchers and receipts for inspection by an Internal Revenue agent.

The executor or administrator, when filing the return, may deduct his commissions in such an amount as has actually been paid or which at that time it is reasonably expected will be paid, but no deduction may be taken if no commissions are to be collected. In the case the amount of the commissions has not been fixed by decree of the proper court, the deduction will be allowed on the final audit of the return provided: (1) That the Commissioner is reasonably satisfied that the commissions claimed will be paid; (2) that the amount entered as a deduction is within the amount allowable by the laws of the jurisdiction wherein the estate is being administered; and (3) that it is in accordance with the usually accepted practice in said jurisdiction in estates of similar size and character. *If the commissions claimed have not been paid at the time of the final audit of the return, the amount deducted must be supported by an affidavit of the executor stating that such amount has been agreed upon and will be paid.*

A bequest or devise to the executor in lieu of commissions is not deductible. If, however, the decedent fixed by his will the compensation payable to the executor for services to be rendered in the administration of the estate, deduction may be taken to the extent that the amount so fixed does not exceed the compensation allowable by the local law or practice.

Amounts paid as trustees' commissions do not constitute expenses of administration and are not deductible, whether received by the

executor acting in the capacity of a trustee or by a separate trustee as such.

When filing the return there may be deducted such an amount of attorney's fees as has actually been paid or which at that time it is reasonably expected will be paid. If on the final audit of the return the fees claimed have not been awarded by the proper court and paid, the deduction will be allowed, provided the Commissioner is reasonably satisfied that the amount claimed for the services rendered, taking into account the size and character of the estate and the local law and practice. *If the fees claimed have not been paid at the time of the final audit of the return, the amount deducted must be supported by an affidavit of the executor or the attorney stating that such amount has been agreed upon and will be paid.*

Attorney's fees incident to litigation instituted by the beneficiaries as to their respective interests do not constitute a proper deduction, inasmuch as expenses of this character are properly charged against the beneficiaries personally and are not administration expenses as contemplated by the statute.

Executors and attorneys should note that executors' commissions and attorneys' fees constitute taxable income and that the amounts received or receivable by them as such compensation are cross-referenced for income-tax purposes.

Estate, legacy, succession, and inheritance taxes, and taxes on income received after death, are not deductible. Deduction for property taxes is limited to such taxes as accrued prior to the decedent's death. Credit to a limited extent may, under "Computation of Tax", sheet XX be claimed for estate, legacy, succession, inheritance, and gift taxes.

SCHEDULE K
DEBTS OF DECEDENT

(See instructions on reverse of this sheet)

Item No.	Creditor and nature of claim	Amount
		\$
		None

TOTAL (also enter under the Recapitulation, Schedule O)..... \$

(If more space is needed, insert additional sheets of same size)

SCHEDULE L
MORTGAGES AND LIENS

(See instructions on reverse of this sheet)

Item No.	Description	Amount
	None	\$
TOTAL (also enter under the Recapitulation, Schedule O)		\$

(If more space is needed, insert additional sheets of same size)

ESTATE OF Joint tenancy Joseph H. Heidt, Deceased

INSTRUCTIONS FOR SCHEDULE L

MORTGAGES AND LIENS

Itemize under this schedule only obligations secured by mortgages or other liens upon property included in the gross estate. List under this schedule all notes and other obligations secured by the deposit of collateral, such as stocks, bonds, etc. Debts of the decedent unsecured by mortgage or other lien upon the property should be listed under Schedule K. Identify, by indicating under the column headed "Description", the particular schedule and item number where such property subject to the mortgage or lien is returned under the gross estate. The full value of the property, without any reduction for the mortgage or other indebtedness, must be returned as part of the gross estate. Real estate situated outside the United States does not form a part of the gross estate for the purpose of the tax, and no deduction may be taken of any mortgage thereon, or any indebtedness in respect thereto.

Show the name and address of the mortgagee, payee, or obligee, and the date and term of the mortgage, note, or other agreement under which the indebtedness is established. Show the face amount, the unpaid balance, the rate of interest, and date to which the interest was paid prior to the decedent's death.

Mortgages upon, or any indebtedness with respect to, property included in the gross estate is deductible only to the extent that the liability was contracted bona fide and for an adequate and full consideration in money or money's worth.

SCHEDULE M **NET LOSSES AND SUPPORT OF DEPENDENTS**

(See instructions on reverse of this sheet)

Item No.	Net losses during administration	Amount
	None	\$
TOTAL (also enter under the Recapitulation, Schedule O)		\$

Item No.	Support of dependents	Amount
	None	\$
TOTAL (also enter under the Recapitulation, Schedule O)		\$

(If more space is needed, insert additional sheets of same size)

ESTATE OF Joint tenancy Joseph H. Heidt, Deceased

10-10000

SHEET XVI

a-37

237

INSTRUCTIONS FOR SCHEDULE M

NET LOSSES AND SUPPORT OF DEPENDENTS

Losses.—Losses are strictly limited to those arising from fire, storm, shipwreck, or other casualty, or from theft, to the extent that such losses are not compensated for by insurance, or otherwise. Losses in order to be deductible must occur during the settlement of the estate. Depreciation in the value of securities or other property does not constitute a deductible loss. Such losses are not deductible if, at the time of the filing of the estate tax return, they had been claimed as a deduction for income tax purposes in an income tax return. In listing losses, full particulars must be given not only as to the loss sustained, but the cause thereof, and in the case of death of livestock, the cause of death must be stated, if known. If insurance or other compensation was received on account of loss, state the amount collected. The property with

respect to which the loss is claimed should be identified by indicating the particular schedule and item number where such property is returned under the gross estate.

If the optional valuation is adopted, deduction for any loss is limited to the extent that such loss is not in effect allowed in the valuation of the item in the gross estate.

Support of dependents.—No deduction may be taken for support of dependents unless the local law permits the allowance, the local court has made a decree specifying the amount thereof, and in fact the allowance was reasonably required for the support of the person in question during the settlement of the estate, and actual disbursement was made from the assets of the estate to the dependents.

16-35420-1

INSTRUCTIONS FOR SCHEDULE N CHARITABLE, FUNERAL, AND SIMILAR GIFTS AND BEQUESTS

Transfers authorized for charitable, public, and similar gifts and bequests as set forth in the Estate Tax Regulations should be reported under this schedule. If the transfer was made by will, duplicate copies, one certified, of the order admitting the will to probate, in addition to the copies of the will, should be submitted with the return. If the transfer was made by any other written instrument, duplicate copies thereof should be submitted with the return, and if the instrument is of record one copy should be certified and if not of record one copy should be verified. If the transfer was made by will, an affidavit of the executor must be submitted, showing whether the decedent's will has been, or to the best of his knowledge, information, and belief, will be contested. If claim is made for deduction of the value of the residue or of a portion thereof (a. g., present worth of a remainder interest in the residue), there should be submitted a copy of the computation whereby the value was determined.

If under the terms of the will or the law of the jurisdiction wherein the estate is administered or the law of the jurisdiction imposing the particular tax, the Federal estate tax or any estate, succession, legacy, or inheritance tax is payable in whole or in part out of any bequest, legacy, or devise deductible hereunder, the sum deductible is the amount of such bequest, legacy, or devise so reduced.

If the optional valuation is adopted, any bequest, legacy, devise, or transfer deductible under this schedule shall be valued for the purpose of the deduction as of the date of the decedent's death, with adjustment for any difference in the value of the property 1 year after his death, or at the date of its sale, or exchange within such year, except that no such adjustment may take into account any difference in value due to mere lapse of time or to the occurrence or nonoccurrence of a contingency.

For further instructions, see Estate Tax Regulations.

SCHEDULE O RECAPITULATION

Schedule	Gross estate	Value under option	Value at date of death
A	Real estate <i>joint tenancy</i>	\$	\$ 57,000 ✓
B	Stocks and bonds		
C	Mortgages, notes, and cash		12,680.09 ✓
D	Insurance		
E	Jointly owned property <i>as above</i>		
F	Other miscellaneous property		
G	Transfers during decedent's life <i>none</i>		
H	Powers of appointment		
I	Property previously taxed		
TOTAL GROSS ESTATE		\$	\$ 69,680.09 ✓

Schedule	Deductions	Amount
J	Funeral expenses	\$ 365.08 ✓
	Executors' commissions <i>none</i>	
	Attorneys' fees	500.00 ✓
	Miscellaneous administration expenses	
K	Debts of decedent <i>none</i>	
L	Mortgages and liens <i>none</i>	
M	Net losses during administration <i>none</i>	
	Support of dependents <i>none</i>	
N	Charitable, public, and similar gifts and bequests <i>none</i>	
TOTAL DEDUCTIONS, except specific exemption and property previously taxed		\$ 865.08 ✓

SCHEDULE P

NET ESTATE FOR THE BASIC TAX—RESIDENT OR CITIZEN

Instructions.—This schedule should be used only for the estate of a resident or citizen of the United States.

1. Total gross estate		\$ 69,680.09 ✓
2. Total deductions, except specific exemption and property previously taxed	\$ 865.08 ✓	
3. Specific exemption	100,000.00	
4. Total deductions, except property previously taxed (Item 2 plus Item 3)	\$ 100,865.08 ✓	
5. Deduction for property previously taxed without proportionate reduction (Schedule I, item c)	\$	
6. Proportionate reduction (proportion of Item 4 that item 5 bears to Item 1)	\$	
7. Net deduction for property previously taxed (Item 5 minus Item 6)	\$	
8. Total deductions (Item 4 plus Item 7)		\$ 100,865.08 ✓
9. Net estate (Item 1 minus Item 8)		\$ — — — ✓

ESTATE OF Joint tenancy Joseph H. Heidt

16-10405

SHEET XVIII

a-41

6.41

SCHEDULE Q

NET ESTATE FOR THE ADDITIONAL TAX—RESIDENT OR CITIZEN

Instructions.—This schedule should be used only for the estate of a resident or citizen of the United States.

1. Total gross estate.....		\$ 67,480.00
2. Total deductions, except specific exemption and property previously taxed.....	\$ 8,655.08	
3. Specific exemption.....	\$ 648,000	
4. Total deductions, except property previously taxed (item 2 plus item 3).....		
5. Deduction for property previously taxed without proportionate reduction (Schedule I, item c).....	\$	
6. Proportionate reduction (proportion of item 4 that item 5 bears to item 1).....	\$	
7. Net deduction for property previously taxed (item 5 minus item 6).....	\$	
8. Total deductions (item 4 plus item 7).....		60,865.08
9. Net estate (item 1 minus item 8).....		\$ 8,815.01

SCHEDULE R

NET ESTATE—NONRESIDENT ALIEN

Instructions.—This schedule should be used only for the estate of a nonresident alien of the United States. No deductions are allowable hereunder unless the value of that part of the gross estate situated outside the United States is set forth.

1. Value of gross estate in the United States (Schedules A, B, C, D, E, F, G, H, and I).....	\$
2. Value of gross estate outside the United States (insert itemized schedule sheet showing values).....	\$
3. Value of total gross estate wherever situated (item 1 plus item 2).....	\$
4. Gross deductions under Schedules J, K, L, and M.....	\$
5. Net deductions under Schedules J, K, L, and M (that proportion of item 4 that item 1 bears to item 3).....	\$
6. Charitable, public, and similar gifts and bequests, Schedule N.....	\$
7. Total deductions, except property previously taxed (item 5 plus item 6).....	\$
8. Deduction for property previously taxed without proportionate reduction (Schedule I, item c).....	\$
9. Proportionate reduction (proportion of item 7 that item 8 bears to item 1).....	\$
10. Net deduction for property previously taxed (item 8 minus item 9).....	\$
11. Total deductions (item 7 plus item 10).....	\$
12. Net estate (item 1 minus item 11).....	\$

100

INSTRUCTIONS FOR COMPUTATION OF TAX

For computation of tax, use the table set forth on the inside of the back cover.

Item 1. "Gross basic tax" is computed, by means of column 1 of the table, on the value of the net estate shown under Schedule P or Schedule R, as the case may be.

Item 2. "Credit for gift tax" is limited to such credit allowable under the statute against the gross basic tax. The gift tax must have been paid by or on behalf of the decedent in respect of property included in the gross estate. The credit cannot exceed the proportion of the gross basic tax, item 1, that the value of the included gift taxed bears to the entire gross estate, unless the gift tax was imposed by the Revenue Act of 1924, as amended, in which case the entire amount is allowable as a credit against the gross basic tax.

Item 4. "Credit for estate, inheritance, legacy, or succession tax" is allowed for such taxes paid as the result of the decedent's death in any State, Territory, or the District of Columbia (or, if the decedent died after June 20, 1939, to any possession of the United States), with respect to property included in the gross estate. This credit cannot exceed 80 percent of item 3. The anticipated amount of the credit may be entered at item 4 and the Federal estate tax shown on the return computed in accordance therewith before such State, etc., taxes have been paid, but the credit cannot be finally allowed unless such taxes are actually paid and the credit therefor is claimed within 4 years after the return is filed (or within such further period as provided by the statute in the case of a petition filed with the United States Board of Tax Appeals or in the case of an extension or postponement of time for the payment of tax), and such credit is supported by the following evidence:

(1) Certificate of the proper officer of the taxing State, Territory, District of Columbia, or possession of the United States showing: (a) The total amount of tax imposed (before adding interest and penalties and before allowing discount); (b) the amount of discount allowed; (c) the amount of penalties and interest imposed or charged; (d) the total amount actually paid in cash; and (e) the date of payment.

(2) A certificate of the above-mentioned officer showing whether (a) a claim for refund of such taxes or any part thereof is pending and (b) whether a refund of such taxes or any part thereof has been authorized. If any refund has been made, the date, the amount thereof, and a description of the property or interest in respect to which such refund was made must be shown in the certificate.

(3) Such additional proof as the Commissioner may specifically request.

If practicable the evidence described in (1) and (2), above, should be filed with the return, but if that is not convenient or possible it should be submitted as soon thereafter as practicable.

Item 5. "Total gross taxes (basic and additional) (Tentative Tax)" are computed on the value of the net estate shown under Schedule Q or Schedule R, as the case may be. If the decedent died before September 21, 1941, column 2 of the table should be used for this item. (See examples 1, 2, and 3 below.) If the decedent died after September 20, 1941, column 3 of the table should be used for this item. (See example 4 below.)

Item 9. "Credit for gift tax" is limited to such credit allowable under the statute against the gross additional tax. The gift tax must have been paid by or on behalf of the decedent in respect of property included in the gross estate. Such credit cannot exceed the proportion of the gross additional estate tax that the value of the included gift taxed bears to the entire gross estate, and furthermore cannot exceed the difference between the total amount of such gift tax and the gift tax credit therefor allowed against the gross basic tax. No credit, however, is allowable against the gross additional tax for gift tax imposed by the Revenue Act of 1924, as amended.

Item 12. "Defense tax" is applicable if the decedent died after the date of the enactment of the Revenue Act of 1940 (June 25, 1940), and on or before the enactment of the Revenue Act of 1941 (September 20, 1941). The amount of the defense tax is 10 percent of the total net basic and additional taxes, item 11.

Item 13. "Total estate tax payable" is the sum of the net basic tax, the net additional tax, and (if applicable) the defense tax.

Example (1) (estate of decedent who died before September 21, 1941, subject to the basic tax, the additional tax and the defense tax and involving credit for State inheritance and estate taxes). A resident of the United States died July 1, 1940, and the value of the net estate shown under Schedule P is \$210,000. The tax shown in the first subcolumn of column 1 of the table on a net estate equaling \$200,000 is \$4,500. As \$210,000 exceeds \$200,000

and falls below \$400,000, the tax on the excess of \$10,000 is computed at the rate of 4 percent, the rate shown in the second subcolumn of column 1. The \$400 tax on such excess added to \$4,500 gives \$4,900, the gross basic tax which should be entered at item 1. Credit for gift tax is not involved in this example, but it will be assumed that the maximum amount of credit for State estate, inheritance, legacy, or succession taxes is allowable; that is, 80 percent, or \$3,920, which should be entered at item 2. The difference, which is the net basic tax, is \$800. The net estate shown under Schedule Q is \$370,000. The amount of the total gross taxes (basic and additional—Tentative Tax) shown in the first subcolumn of column 2 on a net estate equaling \$300,000 is \$26,600. As \$270,000 exceeds \$200,000 and falls below \$400,000, the amount of the total gross taxes on the excess of \$70,000 is computed at 20 percent, the rate shown in the second subcolumn of column 2. The \$14,000, computed on such excess, added to \$26,600, gives \$40,600, the total gross taxes, and \$40,600 should be entered at item 5. From the \$40,600 is subtracted \$4,900, the gross basic tax, and the difference, \$35,700, is the gross additional tax which should be entered at item 8. As in this example no credit for gift tax is involved, the gross additional tax is the same as the net additional tax. The net basic tax, \$800, item 5, added to the net additional tax, \$35,700, item 10, results in a total of \$36,680 which should be entered at item 11. Since the decedent died after the date of the enactment of the Revenue Act of 1940 (June 25, 1940) and before September 21, 1941, the defense tax imposed is 10 percent of \$36,680, or \$3,668, which should be entered at item 12. The sum of \$36,680 and \$3,668 (item 11 plus item 12) is \$40,348, the total estate tax payable, which should be entered at item 13. The computation of the tax in this example is set up below:

1. Gross basic tax.....	\$4,900
2. Credit for gift tax.....	0
3. Gross basic tax less credit for gift tax.....	\$4,900
4. Credit for estate, inheritance, legacy, or succession tax.....	3,920
5. Net basic tax.....	\$800
6. Total gross taxes (basic and additional) (Tentative Tax).....	\$40,600
7. Gross basic tax.....	4,900
8. Gross additional tax.....	\$35,700
9. Credit for gift tax.....	0
10. Net additional tax.....	\$35,700
11. Total net basic and additional taxes.....	\$36,680
12. Defense tax.....	3,668
13. Total estate tax payable.....	\$40,348

Example (2) (estate of decedent who died before September 21, 1941, subject to the additional estate tax and the defense tax only): A resident of the United States died on July 1, 1940, and the value of the gross estate is \$5,000. Deductions for administration expenses and debts are allowed in the amount of \$10,000, leaving \$75,000 before the deduction of the specific exemption. As the specific exemption allowed by the Internal Revenue Code in determining the net estate upon which the basic estate tax is imposed is \$100,000, it is apparent under Schedule P that this estate is not subject to such basic tax. However, as the specific exemption allowed by the Internal Revenue Code for the purpose of determining the additional estate tax is only \$40,000, this estate is subject to such additional estate tax. For the purpose of the additional estate tax the net estate is \$35,000 as would be shown under Schedule Q. The total gross taxes, shown in the first subcolumn of column 2 on a net estate equaling \$30,000 are \$1,200. As \$35,000 exceeds \$30,000 and falls below \$100,000, the amount of the total gross taxes on the excess of \$5,000 is computed at the rate of 8 percent, the rate shown in the second subcolumn of column 2. The \$400, computed on such excess, added to \$1,200, gives \$1,600, the total gross taxes. As no basic estate tax is imposed, this amount is the same as the gross additional tax, and since credit for gift tax is not involved in this example, the gross additional tax is the same as the net additional tax. It will be noted that no credit for estate, inheritance, legacy, or succession taxes is authorized in the computation of the additional tax. The decedent, having died after the date of the enactment of the Revenue Act of 1940 (June

COMPUTATION OF TAX

(See instructions on reverse of Sheet XIX)

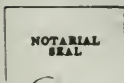
1. Gross basic tax.....	\$.....	
2. Credit for gift tax.....		
3. Gross basic tax less credit for gift tax (item 1 minus item 2).....	\$.....	
4. Credit for estate, inheritance, legacy, or succession tax.....		
5. Net basic tax (item 3 minus item 4).....	\$.....	
6. Total gross taxes (basic and additional) (Tentative Tax).....	\$.....	
7. Gross basic tax.....		
8. Gross additional tax (item 6 minus item 7).....	\$.....	
9. Credit for gift tax.....		
10. Net additional tax (item 8 minus item 9).....		
11. Total net basic and additional taxes (item 5 plus item 10).....	\$.....	
12. Defense tax (10% of item 11) ¹		
13. Total estate tax payable.....		\$ 417.05

¹ Defense tax applicable if decedent died after June 30, 1940, and before September 21, 1941.

AFFIDAVIT OF PERSON OR PERSONS FILING RETURN

We/I, Louise Sealey, formerly Louise Heidt, the surviving joint tenant

the undersigned executor, administrator, beneficiary, custodian, trustee, swear (or affirm) that we/I have carefully examined this return (including the additional sheets inserted, if any); that to the best of our/my knowledge, information, and belief, herein is listed all of the property constituting the decedent's gross estate, as defined by the statute (or if the decedent was a nonresident alien of the United States, herein is listed all of the property constituting the gross estate situated in the United States, as defined by the statute, and, if deductions are claimed, herein is listed separately all of the property constituting the gross estate situated outside the United States); that we/I have no knowledge of any transfers made or trusts created by the decedent during his lifetime of the value of \$5,000 or more, other than bona fide sales for an adequate and full consideration in money or money's worth, except as stated in Schedule G; and that, to the best of our/my knowledge, information, and belief, the fair market value as of the date of the decedent's death is shown for every item of property listed herein under the gross estate (and, in case the optional valuation is herein adopted, that all of the distributions, sales, exchanges, and other dispositions within the year following the decedent's death of the property included in the gross estate, together with the dates thereof, are fully disclosed, and that the value under the option for every item of property is the fair market value as of the applicable valuation date or is such value as properly adjusted), that the debts, expenses, and charges entered herein as deductions from the gross estate are correct and legally allowable, and that all statements made herein are true and correct.



Sworn to and subscribed before me

(Signature) Louise Sealey

this 14th day of

formerly - Louise Heidt

(Address) 743 S. Dunsmuir - Los Angeles, Calif.

June 1943

(Signature) David Sallee

(Address) _____

(Signature and title of officer administering oath)

NOTARY PUBLIC

and for the County of Los Angeles, State of California

(Signature) _____

(Address) _____

AFFIDAVIT OF ATTORNEY OR AGENT PREPARING RETURN

I swear (or affirm) that I prepared this return for the person or persons signing the above affidavit and that this return, including the additional sheets inserted, if any, is a true, correct, and complete statement of all the information respecting the estate tax liability of this estate of which I have any knowledge.

Sworn to and subscribed before me

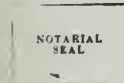
(Signature) Oliver M. Hickey (att'y)

this 2nd day of

(Address) 448 South Hill Street

June 1943

Los Angeles, California



(Signature and title of officer administering oath)

ESTATE OF Joint tenancy Joseph H. Heidt, Decedent

SHEET XX

INSTRUCTIONS FOR COMPUTATION OF TAX—Continued

25, 1940) and prior to September 21, 1941, the defense tax imposed is 10 percent of the net additional tax of \$1,925, or \$192. Consequently, the total tax payable in this case is \$1,730.

Example (3) (estate of decedent who died before September 21, 1941, subject to the basic tax, the additional tax and the defense tax and involving credits for State inheritance tax and for gift tax). The decedent, a resident of the United States, died on July 15, 1940. The total value of the gross estate is \$400,000, the value of the net estate for the purpose of the basic estate tax is \$225,000 and the value of the net estate for the purpose of the additional tax is \$285,000. The gross basic tax computed on the net estate of \$225,000 is \$5,500 and the total gross taxes on the net estate of \$285,000 are \$43,600. (See explanation in the above examples of the use of the table in computing the tax.) The decedent transferred on January 15, 1940, in contemplation of death, certain real estate to his daughter as a gift. The value of the real property as of the date of the gift, and as of the time of death, was \$144,000. As the result of this gift, a gift tax of \$7,200 was paid on a net gift of \$100,000 (\$4,000 excluded and the specific exemption of \$40,000 deducted under the gift tax provisions of the Internal Revenue Code). As the value of the transferred real property is included in the decedent's gross estate, a credit for gift tax is allowed against the gross basic tax, \$5,500, not to exceed the proportion of \$5,500, item 1, that the value of the included gift, \$140,000, bears to the entire gross estate, \$400,000. It will be noted that the amount of the included gift is \$144,000 less \$4,000, the amount excluded in determining the amount for purposes of the gift tax. This proportion, which is ascertained by dividing \$140,000 by \$400,000, is 0.35. The gift tax credit allowed against the gross basic tax is, therefore, 0.35 of \$5,500, or \$1,925, which is entered at item 2. The difference between \$5,500 and \$1,925 is entered at item 3. Maximum credit for State inheritance and estate taxes is allowed in this example in the amount of \$2,860, entered at item 4. The net basic tax is \$715, item 5. The total gross taxes of \$43,600 are entered at item 6, the gross basic tax of \$5,500 is entered at item 7, and the gross additional tax of \$38,100 is entered at item 8. Credit for the gift tax paid (\$7,200) is allowed against the gross additional tax, not to exceed the proportion of \$38,100, item 8, that the value of the included gift, \$140,000, bears to the entire gross estate, \$400,000. The amount of this proportion is \$13,335. However, this credit is further limited by an amount not to exceed the difference between the total of the gift tax, \$7,200, and the credit, \$1,925, allowed for such tax against the gross basic tax. This difference, \$5,275, is the amount of the credit allowed against the gross additional tax, and is entered at item 9. The net additional tax, item 8 minus item 9, is \$32,825, and is entered at item 10. The total net basic and additional taxes of \$33,540 (item 5 plus item 10) is shown at item 11. The defense tax, which is applicable in this case, is \$3,354 (10 percent of item 11) and is entered at item 12. The total tax payable, \$36,894, is

entered at item 13. The computation of the tax in this example is set up as follows:

1. Gross basic tax.....	\$5,500	
2. Credit for gift tax.....	1,925	
3. Gross basic tax less credit for gift tax.....	\$3,575	
4. Credit for estate, inheritance, legacy, or succession tax.....	2,860	
5. Net basic tax.....		\$715
6. Total gross taxes (basic and additional) (Tentative Tax).....	\$43,600	
7. Gross basic tax.....	5,500	
8. Gross additional tax.....	\$38,100	
9. Credit for gift tax.....	5,275	
10. Net additional tax.....		\$32,825
11. Total net basic and additional taxes.....		\$33,540
12. Defense tax.....		3,354
13. Total estate tax payable.....		\$36,894

Example (4) (estate of decedent who died after September 20, 1941, subject only to the additional tax): A resident of the United States died on September 30, 1941, and the value of the gross estate is \$75,000. Deductions for administration expenses and debts are allowed in the amount of \$10,000, leaving \$65,000 before the deduction of the specific exemption. As the specific exemption allowed by the Internal Revenue Code in determining the net estate upon which the basic estate tax is imposed is \$100,000, it is apparent under Schedule P that this estate is not subject to such basic tax. However, as the specific exemption allowed by the Internal Revenue Code for the purpose of determining the additional estate tax is only \$40,000, this estate is subject to such additional estate tax. For the purpose of the additional estate tax the net estate is \$25,000, as would be shown under Schedule Q. The total gross taxes, shown in the first subcolumn of column 3 on a net estate equaling \$20,000 are \$1,600. As \$25,000 exceeds \$20,000 and falls below \$30,000, the amount of the total gross taxes on the excess of \$5,000 is computed at the rate of 14 percent, the rate shown in the second subcolumn of column 3. The \$700, computed on such excess, added to \$1,600, gives \$2,300, the total gross taxes. Since no basic estate tax is imposed, this amount is the same as the gross additional tax, and since credit for gift tax is not involved in this example, the gross additional tax is the same as the net additional tax. (No credit for estate, inheritance, legacy, or succession taxes is authorized in the computation of the additional tax.) It will be noted that since the decedent died after the date of the enactment of the Revenue Act of 1941 (September 20, 1941), no defense tax is imposed upon such net additional tax. Consequently, the total tax payable in this case is \$2,300.

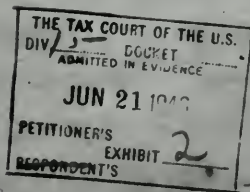
1 We, Marie Wiese, and Ferdinand Wiese, her husband, of
2 the County of San Bernardino, State of California, for and
3 in consideration of the love and affection which we have
4 for our daughter Louisa Heidt, of the same County and
5 State, do hereby give and grant to said Louisa Heidt, all
6 that real property situated in the County of San Bernardino,
7 State of California, known and described as Lot number
8 Twenty-five (25), in Block number One Hundred and Twelve (112)
9 of the City of Colton, according to the map of the original
10 town of Colton made and published at the instance of the
11 Western Development Company.

12 To have and to hold the same as her sole and separate
13 property.

14 IN WITNESS WHEREOF, we do hereunto sign our names, this
15 9th day of August, 1893.

16 Marie Wiese

17 Ferdinand Wiese



Three
to
Heidt

* 3

Recorded at Request of
Laurie Heidt

AUG 11 1893
at 25 min. past 9. a. m.
in Book 184 Page 137
Records
call

Records Sag Bernardino County.

John Rodman

County Recorder.

J. J. Johnson
Deputy Recorder.

John

Heidt paid.

Deed

John Weiss and
Frankland Weiss

To
Laurie Heidt

Dated Aug 9 1893

CURTIS, OSTER & CURTIS,

Attorneys-at-Law.

442 Third Street, San Bernardino, Cal

United States Circuit Court of Appeals
for the Ninth Circuit

Tax Court Docket No. 5802

ESTATE OF JOSEPH H. HEIDT, Deceased,
LOUISE SEELEY, Executrix,
Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

PETITION FOR REVIEW OF DECISION OF
THE TAX COURT OF THE UNITED
STATES.

To the Honorable Judges of the United States Cir-
cuit Court of Appeals for the Ninth District:

Comes now the petitioner, above named, and re-
spectfully shows:

I.

Nature of the Controversy

Joseph H. Heidt died a resident of North Ridge, California, on November 22, 1942, at the age of ninety nine years and eleven days. The petitioner, Louise Seeley, formerly Louise Heidt, is his widow and since his death has remarried.

The said Louise Seeley duly filed the Federal Estate Tax Return (Form 706) on June 14, 1943, with the Collector of Internal Revenue for the Sixth District of California. The petitioner, the said Louise Seeley, as the widow of said decedent,

[190] is the surviving joint tenant of the eight items of property involved in this controversy.

Respondent determined a deficiency in estate tax against petitioner, in the sum of Sixteen Thousand Four Hundred Thirty Five and 1/100 (\$16,435.01) Dollars. This deficiency arose because respondent asserted that petitioner, in the gross estate of said decedent, should have included the full value of the aforesaid eight items of property held in joint tenancy instead of including only one-half their value as was done in the said Federal estate tax return.

Petitioner filed an appeal with the Tax Court of the United States.

The case was tried at Los Angeles, California, on June 21, 1946, before the honorable Eugene Black, Judge of the Tax Court of the United States. The case was submitted on documentary evidence and oral testimony. At the close of the hearing Judge Black directed that petitioner file an Opening Brief on or before August 5, 1946; that the respondent could file a Brief on or before September 5, 1946; that the petitioner might reply to said Brief on or before October 5, 1946; that thereafter the time for the filing of petitioner's Opening Brief was extended to September 1, 1946; that on September 9, 1946, the petitioner's Opening Brief was, on leave of the Court, filed; that on October 8, 1946, respondent's Brief was filed with the Court.

Under date of May 6, 1947, the Tax Court of the United States, by Judge Harlan, who did not hear the witnesses, [191] promulgated its Findings of Fact and Opinion after a review by the full Court

of said opinion. Judge Murdock, in an opinion, dissented from the above decision. He was joined in his dissent by Judges Van Fossan and Leech. On May 6, 1947, the same day, the Tax Court of the United States entered its decision that there was a deficiency in estate tax due from petitioner, in the amount of Sixteen Thousand Four Hundred Thirty Five and 1/100 (\$16,435.01). Said decision is reported as 8 Tax Court III. The controversy involves the question whether decedent's wife, as surviving joint tenant of decedent, was able to show that any part of said items of property originally belonged to said survivor and was never acquired by her or received by her from the decedent for less than an adequate and full consideration in money or money's worth. During the whole period of their marriage, approximately fifty (50) years, decedent and petitioner were residents of California, a community property state, and all of the said items of property in controversy were acquired since the time of their marriage, and most of said items of property were acquired after July 29, 1927. Section 811 (e) (1) of the Internal Revenue Code, as amended by Section 402 of the Revenue Act of 1942, requires that there shall be included in the gross estate for estate tax purposes the entire value of property held by the decedent and any other person as joint tenants, except such part thereof as may be shown to have originally belonged to such other person and never to have been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or [192]

money's worth. In its opinion the Tax Court also referred to Section 811 (e) (2) of the Internal Revenue Code which deals with community property. The Court apparently requires that property held in joint tenancy by spouses in community property states fit under the exceptions in both Subsections, namely, Section 811 (e) (1) and 811 (e) (2), in order that it need not be included in the gross estate of the decedent. The petitioner contended that as contributions of a surviving joint tenant to jointly owned property should be excluded from the gross estate of the decedent, that where community property is acquired as the result of the personal services actually rendered by the surviving spouse and jointly owned property is acquired by such community property, only one-half thereof is includable in the gross estate of the decedent. Petitioner also contended that such proportion of said jointly owned property as was acquired from her separate property should be excluded from the gross estate of the decedent. At the trial before the Tax Court of the United States, on June 21, 1946, before the honorable Eugene Black, Judge of the Tax Court of the United States, no oral testimony presented was by the respondent. The documentary evidence consisted of the Federal Estate Tax (Form 706) filed by the petitioner and received in evidence as the joint exhibit of petitioner and respondent and number A-1. Also in evidence was petitioner's Exhibit No. 2, a Deed to petitioner from her mother and father recorded August 11, 1893. This was a Deed of a house and lot located in Col-

ton, [193] California, and was given her as a wedding present by her parents.

In addition, a number of deed were orally put into evidence by reference to the originals made in the Record Books of the Official Records of Los Angeles County. They were admitted as corroboration of the testimony of Louise Seeley and Judge Ingall W. Bull, in which these witnesses testified that petitioner was engaged in a course of business involving the buying and selling and managing of real property in which the money she received as proceeds of the sale of such property or as income from the rental of such property was put into a revolving fund, and that moneys were drawn out of such revolving fund and reinvested in other real estate, and that the proceeds finally went into the purchase and improvement of the said items of property which were on hand at the time of the death of Mr. Heidt, which stood in their names as joint tenants.

Almost all of the oral testimony was given by Louise Seeley, petitioner, in this matter. The only other oral testimony was given by the Honorable Ingall W. Bull, attorney for decedent and petitioner during their marriage from about 1906 until said witness went on the Bench as Judge of the Superior Court of the State of California, in and for the County of Los Angeles, in or about the year 1936. At the conclusion of petitioner's oral testimony the respondent rested without putting on any testimony. The petitioner [194] contended that at least seventy-five per cent (75%) of the aggregate

of the funds in these items of property was contributed either from the separate property of petitioner or from community earnings derived from her personal efforts. Said community earnings were acquired by petitioner as a business woman dealing by trade and by purchase and sale extensively in real properties, both income and non-income, and were received as compensation for personal services actually rendered by petitioner, the surviving spouse. Petitioner further contended that at least one-half of the value of each of the eight items of property and in the aggregate over seventy-five per cent (75%) of the value of the said items was acquired either from the proceeds of separate property of petitioner, which under the law of California retains the character of such property, or that such proportion came from community property acquired after July 29, 1927, as the result of personal services actually rendered by the surviving spouse; that in this case such services were rendered as a business woman, dealing in and managing real properties, the accretions to the community being the result of her unusual skill and abilities in this regard.

The respondent contended that the burden was upon the petitioner to prove to what extent, if any, the surviving spouse contributed to the jointly owned property which was standing in the name of the decedent and the surviving spouse on the date of his death. Respondent contended that the surviving spouse failed to prove any specific contributions to the jointly owned property. Respondent further

contended that all of the said jointly owned property was acquired by the decedent from his [195] separate property or from jointly owned property, the contributions to which by the surviving spouse were not established with mathematical certainty. Petitioner had further contended that the entirety of Item 5, being the Deed of Trust from the Japanese on the Elmo Hotel, should be excluded from the gross estate for the reason that the entirety thereof was acquired from the separate property of the surviving spouse and no part thereof was subject to the testamentary disposition of the decedent; and petitioner also further contended that the entirety of Item 1, being the North Ridge ranch, should be excluded from the gross estate for the reason that the down payment therefor, in the sum of Nine Thousand Dollars (\$9,000.00) originated from the separate property of the surviving spouse, and for the further reason that the installment payments made thereon were so commingled with the separate property of the wife and surviving spouse that the entirety thereof is presumed to be the separate property of the surviving spouse, according to the substantive law of the State of California. Respondent contended that the petitioner had failed to show that the Palm Springs property used to pay for the down payment on the North Ridge Ranch was not the separate property of decedent. This property stood in the name of the wife, the surviving spouse. Respondent also contended that the Trust Deed, which is Item 5 and which was acquired by reason of the sale of the Elmo Hotel

to a Japanese, was not the separate property of the surviving spouse but instead was community property because the hotel was [196] built as a separate business venture by Mr. Heidt. The Court made separate findings of fact as to each of the eight items, and in Items 1, 3 and 6 the amounts that the petitioner contends are clearly shown to have been made by her are set forth in said findings. The Court, however, held that petitioner had failed to show with mathematical certainty that the portion of the consideration furnished by the surviving spouse for the joint property which she seeks to exclude from decedent's gross estate was derived from compensation for personal services actually rendered by the surviving spouse or from her separate property. The dissent said that a portion of the value of Items 1, 3 and 6 should be excluded from decedent's gross estate, because the findings show that parts of those jointly held properties originally belonged to the surviving spouse as a result of her personal efforts and had not been received or acquired by her from the decedent. The dissent said that there had been no failure of proof as to those parts and that an allocation could easily be made.

Petitioner claims that the Court erred in not excluding a portion of the value of Items 1, 3 and 6 from decedent's gross estate, because the findings themselves clearly show that part of those jointly held properties originally belonged to the surviving spouse as a result of her personal efforts, and that these parts had not been received or acquired by

her from the decedent. The petitioner claims that the Court erred in holding that there had been a failure of proof as to these items and that an allocation could not be made thereof. The petitioner claims that the Tax Court erred in not finding that the money used to purchase Item 1 was the separate property of the petitioner. The petitioner claims that the Tax Court erred in not finding that at least one-half of Items 2, 4, 5, 7 and 8 was contributed by petitioner as her separate property or from community property, which community property was acquired as the result of her sole efforts and personal services; and the petitioner further claims that the Court erred in its determination and decision upon these items, in that it made its findings without any evidence or substantial evidence in support thereof.

The petitioner further claims that there was no failure of proof as to these items; that the evidence on each and every item was substantial and uncontradicted and proved petitioner's contentions in regard to them, and that, therefore, on the record there was no other interpretation possible but that the burden placed on petitioner was sustained. The petitioner also claims that the Tax Court misinterpreted the import of Regulation 105, Section 81.22 as amended by T. D. 5239 C. B. 1943, P. 1085, among other things, in that it disregarded the uncontroverted evidence of petitioner's activities in buying, selling, dealing in and managing real properties, both income and non-income, as contributions to the community property and to her separate

property. The petitioner also claims that the Commissioner in Regulation 105, Section 81.22, as amended, has made a clearly erroneous interpretation of the [198] Internal Revenue Code, Section 811 (e), in that such regulation disregards the rule that the Federal Courts shall be bound by state court interpretations of the state of title to and interest in properties. California Civil Code, Section 161a, provides that the wife has a present existing and equal interest in community property. Thus, when it is shown that joint tenancy property was originally community property it has been shown that half of the property held in joint tenancy originally belonged to such person surviving. Furthermore the present, existing and equal interest of the survivor attaches at the instant the property is acquired, and so such property could never have been received or acquired by such surviving spouse from a decedent for less than an adequate and full consideration in money or money's worth.

Petitioner avers that in the records and proceedings before the Tax Court of the United States, in the opinion and decision rendered by the Tax Court of the United States, manifest error occurred and intervened to the prejudice of petitioner, who now assigns the following points on which petitioner intends to rely in this proceeding:

The Tax Court of the United States erred:

(A) In determining and assigning without any evidence or substantial evidence in support thereof

that decedent sometimes bought property, and had the title put in the joint names of himself and his wife.

(B) In failing to determine and decide that Item 1, the property known as North Ridge Ranch, was bought by petition or by her direction out of her separate funds or out of community [199] property, the acquisition of which was attributable to her personal services.

(C) In determining and assigning without any evidence or substantial evidence in support thereof that petitioner had failed to show that the source of the funds invested in the Palm Springs property, which was used or of which the proceeds thereof were used to pay off the down payment on the North Ridge Ranch, was not clearly shown to have been from the separate property of petitioner or from community property attributable to the personal services of petitioner.

(D) In failing to determine and decide in view of the findings that petitioner contributed \$9,000.00 to the purchase of Item 1, that this amount could be attributed to petitioner, and that thus the value of Item 1 reported as part of decedent's gross estate should be reduced by this amount.

(E) In determining and deciding without any evidence or substantial evidence in support thereof that Item 2, consisting of two apartment houses located at Dunsmuir & 8th Streets in Los Angeles, California, was acquired by decedent for cash de-

rived from profits from different trades made by the decedent and his wife, rather than from trades made by petitioner alone.

(F) In failing to determine and decide that said cash derived from profit from different trades and used in the purchase of Item 2 was from the proceeds of trades made by petitioner in the course of her dealings as a real estate business woman buying and selling and managing and dealing in real properties. [200]

(G) In failing to determine and decide that in the case of Item 3, the Sunset Place property, on the basis of the finding as made, an allocation could not have been made as between the contributions of decedent and petitioner, it having been found that petitioner paid about \$15,000.00 for one house on the property and that the decedent paid from \$12,000.00 to \$14,000.00 for the other house.

(H) In determining and deciding without any evidence or substantial evidence in support thereof that decedent purchased Item 4, the El Camino home in Beverly Hills, in determining and deciding without any evidence or substantial evidence in support thereof that such property was acquired by decedent, who took a mortgage on the property as security for a loan, and in failing to determine and decide that said property was purchased by petitioner from funds that she acquired by sale of her separate property, or funds acquired as community property by reason of her personal services.

(I) In determining and deciding without any evidence or substantial evidence in support thereof that Item 5, known as the Elmo Hotel on Ruth Avenue, was built by decedent; that it was first rented and then sold by decedent and that decedent's widow did not know the number of rooms or what its cost was.

(J) In failing to determine and decide that said Item 5, known as the Elmo Hotel, was built by petitioner; that it was rented by petitioner and that the reason that petitioner did not know more about the details on the rent of the rooms was that it was rented to a Japanese who hired a manager to [201] run it for him, and that thus petitioner did not acquire a greater knowledge thereof as she did in certain other cases where she had the management of the income property.

(K) In failing to determine and decide that Item 5 the said Elmo Hotel, was built by petitioner out of funds received by petitioner as proceeds of the sale of her separate property, or from community property acquired by petitioner as the result of her personal services.

(L) In failing to determine and decide in view of the findings thereon that a portion of Item 6, being the joint bank account in the Bank of America in the amount of \$21,951.37, could properly be allocated between decedent and petitioner, it having been found that approximately \$10,000.00 of the amount on deposit in this joint account had been

deposited by decedent's wife, the money coming from rents from different buildings and apartments.

(M) In failing to determine and decide or in failing to make such determination and decision clear that the rents from different buildings and apartments deposited in the bank account constituting Item 6 was from different buildings and apartments, which were either the separate property of petitioner or the community property of petitioner which had been acquired by reason of the personal services of petitioner.

(N) In determining and deciding without any evidence or substantial evidence in support thereof that Item 7, which was the sum of \$1,409.02 deposited in the California Bank, 9941 Wilshire Boulevard, Beverly Hills, California, to the [202] joint account of decedent and his wife, was money that was deposited by the decedent.

(O) In failing to determine and decide that Item 7, which the Court found was derived from the sale of different properties which had been accumulated, was from the sale of different properties which were either the separate property of petitioner or community property which had been acquired as the result of her personal services, and that more than half of the moneys on deposit in said account should have been allocated to petitioner.

(P) In determining and deciding without any evidence or substantial evidence in support thereof that Item 8, consisting of 20 United States Defense

Bonds, the total par value of which was \$2,000.00, were purchased by the decedent with his own funds, and that they were put in the joint names of the decedent and his wife.

(Q) In failing to allow as contributions by the petitioner to the said items of property held in joint tenancy at the death of decedent, the separate property owned by petitioner at the time of her marriage or the separate property acquired since her marriage by gift or the proceeds of such separate property.

(R) In determining and deciding that Regulation 105 Section 81.22, as amended by T. D. 5239 C. B. 1943, P. 1085, is controlling or even persuasive on the instant set of facts.

(S) In failing to determine and decide that Regulation 105, Section 81.22 as amended, is an incorrect statement of [203] the law as set forth in the Internal Revenue Code, Section 811 (e) 1 and 2.

(T) In rendering a decision contrary to law, in that said Regulation 105, Section 81.22 as amended, is illegal and contrary to law.

(U) In rendering a decision contrary to law in that said Regulation 105, Section 81.22 as amended, as applied to the instant situation, has been interpreted and applied illegally and contrary to law.

(V) In determining and deciding that the amendment to Regulation 105, Section 81.22, as made by T. D. 5239 (C. B.) 1943, Page 1085, requires that

the wife's former interest in the community property which has been converted into joint tenancy be not regarded as property originally belonging to her.

(W) In determining and deciding that the Internal Revenue Code, Section 811 (e) (2) requires that the wife's former interest in community property transferred into property held in joint tenancy be not regarded as property originally belonging to her.

(X) In determining and deciding that petitioner must prove with mathematical certainty the amount of her contributions to the items of property held in joint tenancy at the death of decedent derived from her separate property or from compensation received by her for her personal services and efforts.

(Y) In determining and deciding that said Internal [204] Revenue Code, Section 811 (e) (2) requires that if the spouses convert their community ownership into a joint tenancy that the entire property be also taxed as part of the husband's estate.

(Z) In determining and deciding that said Regulation 105, Section 81.22, as amended, is a reasonable regulation and that it should be applied to the facts in the instant proceeding.

(AA) In determining and deciding that petitioner need show that the consideration furnished by surviving spouse for the joint property, which she seeks to exclude from decedent's gross estate,

was derived from compensation for personal services actually rendered by the surviving spouse or from her separate property.

(BB) In failing to recognize the effect of California Civil Code, Section 16a, on community property acquired, and in determining and deciding that the interest of petitioner in the community property came in some way from the decedent rather than as the result of the substantive law of California, which law the Federal Court must follow in matters where title to or interest in property is determined by the state law.

(CC) In failing to determine and decide that petitioner had sustained her burden of proof and had proved that at least one-half of all of the eight items of property was attributable to her separate property or to community property, which had been acquired as the result of her personal services. [205]

(DD) In determining and deciding that petitioner had failed to meet her burden of proof and had failed to show that Items 1 and 5 should be entirely excluded from the gross estate of decedent.

(EE) In determining and deciding contrary to the evidence and the findings of fact as to Items 1, 3 and 6, despite the clear Finding of Fact as to petitioner's contributions thereto, that there was no evidence that any part of the consideration for such items was derived from compensation for personal services actually rendered by the surviving spouse or from her separate property.

(FF) In determining and deciding that there had been a failure of proof as to Items 1, 3 and 6 and that an allocation could not be made thereof as between decedent and petitioner.

(GG) In failing to determine and decide that as matter of law that there was no other interpretation possible but that the burden placed on petition had been met, the evidence on each and every item being substantial and uncontradicted.

(HH) In disregarding the uncontraverted evidence of petitioner's activity in buying, selling, dealing in and managing real properties, both income and non-income, as contributing to the community property and to her separate property.

(II) In rendering a decision contrary to law.

(JJ) In rendering a decision contrary to its findings of fact.

(KK) In determining and deciding that petitioner was liable for the payment of a deficiency in the state tax of \$16,435.01, or any other sum, or any sum at all, because no notice was given to the Commissioner under Internal Revenue Code, Section 901 (a) or (b) in that it is shown by the records, in the official transcript of the proceedings before the Tax Court of the United States on June 21, 1946, Pages 65 and 66, that there was no Executor or Executrix nor is there such Executor or Executrix of the Estate of Joseph H. Heidt, deceased, nor was there any Will admitted to probate, and that in the absence of any notice to the Commissioner under said Section 901 (a) or (b), the

notice of deficiency was not properly given or addressed under Internal Revenue Code, Section 901 (d), and that it was not addressed in the name of the decedent or other person subject to liability and mailed to his last known address, nor was it addressed in the name of the decedent or other person subject to liability at all.

II.

Statute of Limitations

Petitioner claims that as the Federal Estate Tax Return (Form 706) was filed June 14, 1943, with the Collector of Internal Revenue for the Sixth District of California by his widow, Mrs. Louise Seeley, and that as by Internal Revenue Code Section 874 (a) the estate taxes must be assessed within three years after the return was filed, and that no proceeding [207] in Court without assessments for the collection of such taxes shall be begun after the expiration of three years after the return was filed; and further that by Internal Revenue Code, Section 900 (b) the period of limitations for assessment of liability against the transferee as fiduciary shall be one year after the expiration of the period of limitations for assessment against the executor. That, therefore, the statute of limitations has run as to assessing such deficiency.

III.

The Court in Which Review Is Sought

The United States Circuit Court of Appeals for the Ninth Circuit is the Court in which review of

said decision of The Tax Court of the United States is sought, pursuant to the provisions of Section 1141 of the Internal Revenue Code.

IV. Venue

The decision of the Tax Court of the United States determining a deficiency was entered on May 6, 1947.

Joseph H. Heidt was for many years a resident of the County of Los Angeles, State of California, and died therein on November 22, 1942. Decedent's widow, Mrs. Marie Seeley, is the surviving joint tenant of Joseph H. Heidt, deceased. At all times subsequent to the marriage of decedent and petitioner in 1893 they resided in the State of California until the time of decedent's death.

The Federal Estate Tax Return, Form 706, for said [208] estate was duly filed with the United States Collector of Internal Revenue for the Sixth District of California, whose offices are located at Los Angeles, California, and are in the Ninth Judicial Circuit of the United States.

The parties hereto have not stipulated that said decision may be reviewed by any Court of Appeal other than the one herein designated.

Wherefore, petitioner prays that the decision of the Tax Court of the United States herein be reviewed by the United States Circuit Court of Appeals for the Ninth Circuit; that a transcript of the record be prepared in accordance with the law and

the rules of said Court and transmitted to the Clerk of said Court for filing; and that appropriate action be taken, to the end that the errors complained of may be reviewed and corrected by said Court.

Dated: August 4th, 1947.

/s/ RALPH W. SMITH,
/s/ OLIVER O. CLARK,
/s/ L. A. LUCE,
/s/ JOHN MOORE ROBINSON,
/s/ ROBERT M. HIMROD,

Suite 917 Bank of America Bldg., 650 South Spring
Street, Los Angeles 14, California, Attorneys
for Petitioner.

Filed T.C.U.S. August 4, 1947. [209]

[Title of Circuit Court of Appeals and Cause.]

NOTICE OF FILING PETITION
FOR REVIEW

To John P. Wenchel, Chief Counsel, Bureau of
Internal Revenue, Washington, D. C.

You are hereby notified that the petitioner, on
the .. day of August, 1947, filed with the Clerk of
The Tax Court of the United States at Washington,
D. C., a petition for review by the United States
Circuit Court of Appeals for the Ninth Circuit of
the decision of The Tax Court of the United States
heretofore rendered in the above entitled cause.

A copy of the petition for review as filed is hereby attached and served [210] upon you.

Dated this . . day of August, 1947.

/s/ RALPH W. SMITH,

/s/ OLIVER O. CLARK,

/s/ L. A. LUCE,

/s/ JOHN MOORE ROBINSON,

/s/ ROBERT M. HIMROD,

Suite 917 Bank of America Bldg., 650 South Spring
Street, Los Angeles 14, California, Attorneys
for Petitioner.

Acknowledgment of Service

Personal service of the foregoing Notice, together with a copy of the Petition for Review is hereby acknowledged this 4th day of August, 1947.

/s/ CHARLES OLIPHANT, CAR

Acting Chief of Counsel, Bureau of Internal Revenue, Counsel for Respondent.

Filed T.C.U.S., August 4, 1947. [211]

[Title of Circuit Court of Appeals and Cause.]

PETITIONER'S STATEMENT OF POINTS TO BE RELIED UPON AND DESIGNATION OF PARTS OF RECORD TO BE PRINTED

Comes now the petitioner for review in the above entitled cause, by and through her counsel, and states

that the points upon which she intends to rely in this case are as follows:

The Tax Court of the United States erred:

(A) In determining and assigning without any evidence or substantial evidence in support thereof that decedent sometimes bought property, and had the title put in the joint names of himself and his wife.

(B) In failing to determine and decide that Item 1, the property known as North Ridge Ranch, was bought by petitioner or by her direction out of her separate funds or out of community [212] property, the acquisition of which was attributable to her personal services.

(C) In determining and assigning without any evidence or substantial evidence in support thereof that petitioner had failed to show that the source of the funds invested in the Palm Springs property, which was used or of which the proceeds thereof were used to pay off the down payment on the North Ridge Ranch, was not clearly shown to have been from the separate property of petitioner or from community property attributable to the personal services of petitioner.

(D) In failing to determine and decide in view of the findings that petitioner contributed \$9,000.00 to the purchase of Item 1, that this amount could be attributed to petitioner, and that thus the value of Item 1 reported as part of decedent's gross estate should be reduced by this amount.

(E) In determining and deciding without any evidence or substantial evidence in support thereof that Item 2, consisting of two apartment houses located at Dunsmuir & 8th Streets in Los Angeles, California, was acquired by decedent for cash derived from profits from different trades made by the decedent and his wife, rather than from trades made by petitioner alone.

(F) In failing to determine and decide that said cash derived from profit from different trades and used in the purchase of Item 2 was from the proceeds of trades made by petitioner in the course of her dealings as a real estate business woman buying and selling and managing and dealing in real properties. [213]

(G) In failing to determine and decide that in the case of Item 3, the Sunset Place property, on the basis of the finding as made, an allocation could not have been made as between the contributions of decedent and petitioner, it having been found that petitioner paid about \$15,000.00 for one house on the property and that the decedent paid from \$12,000.00 to \$14,000.00 for the other house.

(H) In determining and deciding without any evidence or substantial evidence in support thereof that decedent purchased Item 4, the El Camino Home in Beverly Hills, in determining and deciding without any evidence or substantial evidence in support thereof that such property was acquired by decedent, who took a mortgage on the property as security for a loan, and in failing to determine and

decide that said property was purchased by petitioner from funds that she acquired by sale of her separate property, or funds acquired as community property by reason of her personal services.

(I) In determining and deciding without any evidence or substantial evidence in support thereof that Item 5, known as the Elmo Hotel on Ruth Avenue, was built by decedent; that it was first rented and then sold by decedent and that decedent's widow did not know the number of rooms or what its cost was.

(J) In failing to determine and decide that said Item 5, known as the Elmo Hotel, was built by petitioner; that it was rented by petitioner and that the reason that petitioner did not know more about the details on the rent of the rooms was that it was rented to a Japanese who hired a manager to run it for him, and that thus petitioner did not acquire a greater knowledge thereof as she did in certain other cases where she had the management of the income property.

(K) In failing to determine and decide that Item 5, the said Elmo Hotel, was built by petitioner out of funds received by petitioner as proceeds of the sale of her separate property, or from community property acquired by petitioner as the result of her personal services.

(L) In failing to determine and decide in view of the findings thereon that a portion of Item 6, being the joint bank account in the Bank of America

in the amount of \$21,951.37, could properly be allocated between decedent and petitioner, it having been found that approximately \$10,000.00 of the amount on deposit in this joint account had been deposited by decedent's wife, the money coming from rents from different buildings and apartments.

(M) In failing to determine and decide or in failing to make such determination and decision clear that the rents from different buildings and apartments deposited in the bank account constituting Item 6 was from different buildings and apartments, which were either the separate property of petitioner or the community property of petitioner which had been acquired by reason of the personal services of petitioner.

(N) In determining and deciding without any evidence or substantial evidence in support thereof that Item 7, which was the sum of \$1,409.02 deposited in the California Bank, 9941 Wilshire Boulevard, Beverly Hills, California, to the [215] joint account of decedent and his wife, was money that was deposited by the decedent.

(O) In failing to determine and decide that Item 7, which the Court found was derived from the sale of different properties which had been accumulated, was from the sale of different properties which were either the separate property of petitioner or community property which had been acquired as the result of her personal services, and that more than half of the moneys on deposit in said account should have been allocated to petitioner.

(P) In determining and deciding without any evidence or substantial evidence in support thereof that Item 8, consisting of 20 United States Defense Bonds, the total par value of which was \$2,000.00, were purchased by the decedent with his own funds, and that they were put in the joint names of the decedent and his wife.

(Q) In failing to allow as contributions by the petitioner to the said items of property held in joint tenancy at the death of decedent, the separate property owned by petitioner at the time of her marriage or the separate property acquired since her marriage by gift or the proceeds of such separate property.

(R) In determining and deciding that Regulation 105 Section 81.22, as amended by T.D. 5239 C.B. 1943, P. 1085, is controlling or even persuasive on the instant set of facts.

(S) In failing to determine and decide that Regulation 105, Section 81.22 as amended, is an incorrect statement of [216] the law as set forth in the Internal Revenue Code, Section 811 (e) 1 and 2.

(T) In rendering a decision contrary to law, in that said Regulation 105, Section 81.22 as amended, is illegal and contrary to law.

(U) In rendering a decision contrary to law in that said Regulation 105, Section 81.22 as amended, as applied to the instant situation, has been interpreted and applied illegally and contrary to law.

(V) In determining and deciding that the amendment to Regulation 105, Section 81.22, as made by T.D. 5239 (C.B.) 1943, Page 1085, requires that the wife's former interest in the community property which has been converted into joint tenancy be not regarded as property originally belonging to her.

(W) In determining and deciding that the Internal Revenue Code, Section 811 (e) (2) requires that the wife's former interest in community property transferred into property held in joint tenancy be not regarded as property originally belonging to her.

(X) In determining and deciding that petitioner must prove with mathematical certainty the amount of her contributions to the items of property held in joint tenancy at the death of decedent derived from her separate property or from compensation received by her for her personal services and efforts.

(Y) In determining and deciding that said Internal [217] Revenue Code, Section 811 (e) (2) requires that if the spouses convert their community ownership into a joint tenancy that the entire property be also taxed as part of the husband's estate.

(Z) In determining and deciding that said Regulation 105, Section 81.22, as amended, is a reasonable regulation and that it should be applied to the facts in the instant proceedings.

(AA) In determining and deciding that petitioner need show that the consideration furnished by surviving spouse for the joint property, which she

seeks to exclude from decedent's gross estate, was derived from compensation for personal services actually rendered by the surviving spouse or from her separate property.

(BB) In failing to recognize the effect of California Civil Code, Section 16a, on community property acquired, and in determining and deciding that the interest of petitioner in the community property came in some way from the decedent rather than as the result of the substantive law of California, which law the Federal Court must follow in matters where title to or interest in property is determined by the state law.

(CC) In failing to determine and decide that petitioner had sustained her burden of proof and had proved that at least one-half of all of the eight items of property was attributable to her separate property or to community property, which had been acquired as the result of her personal services. [218]

(DD) In determining and deciding that petitioner had failed to meet her burden of proof and had failed to show that Items 1 and 5 should be entirely excluded from the gross estate of decedent.

(EE) In determining and deciding contrary to the evidence and the findings of fact as to Item 1, 3 and 6, despite the clear Finding of Fact as to petitioner's contributions thereto, that there was no evidence that any part of the consideration for such items was derived from compensation for personal services actually rendered by the surviving spouse or from her separate property.

..(FF) In determining and deciding that there had been a failure of proof as to Items 1, 3 and 6 and that an allocation could not be made thereof as between decedent and petitioner.

..(GG) In failing to determine and decide that as matter of law that there was no other interpretation possible but that the burden placed on petition had been met, the evidence on each and every item being substantial and uncontradicted.

..(HH) In disregarding the uncontraverted evidence of petitioner's activity in buying, selling, dealing in and managing real properties, both income and non-income, as contributing to the community property and to her separate property.

..(II) In rendering a decision contrary to law.

..(JJ) In rendering a decision contrary to its findings of fact.

..(KK) In determining and deciding that petitioner was liable for the payment of a deficiency in the state tax of \$16,435.01, or any other sum, or any sum at all, because no notice was given to the Commissioner under Internal Revenue Code, Section 901 (a) or (b) in that it is shown by the records, in the official transcript of the proceedings before the Tax Court of the United States on June 21, 1946, Pages 65 and 66, that there was no Executor or Executrix nor is there such Executor or Executrix of the Estate of Joseph H. Heidt, deceased, nor was there any Will admitted to probate,

and that in the absence of any notice to the Commissioner under said Section 901 (a) or (b), the notice of deficiency was not properly given or addressed under Internal Revenue Code, Section 901 (d), and that it was not addressed in the name of the decedent or other person subject to liability and mailed to his last known address, nor was it addressed in the name of the decedent or other person subject to liability at all.

Petitioner claims that as the Federal Estate Tax Return (Form 706) was filed June 14, 1943, with the Collector of Internal Revenue for the Sixth District of California by his widow, Mrs. Louise Seeley, and that as by Internal Revenue Code Section 874 (a) the estate taxes must be assessed within three years after the return was filed, and that no proceeding in Court without assessments for the collection of such [220] taxes shall be begun after the expiration of three years after the return was filed; and further that by Internal Revenue Code, Section 900 (b) the period of limitations for assessment of liability against the transferee as fiduciary shall be one year after the expiration of the period of limitations for assessment against the executor. That, therefore, the statute of limitations has run as to assessing such deficiency.

Petitioner hereby designates the entire record as certified to the Clerk of the above entitled Court as necessary to be printed for the consideration of the points set forth above. Petitioner also designates

this statement of points and designation as necessary to be printed.

Dated: August 4th, 1947.

/s/ RALPH W. SMITH,

/s/ OLIVER O. CLARK,

/s/ L. A. LUCE,

/s/ JOHN MOORE ROBINSON,

/s/ ROBERT M. HIMROD,

Suite 917 Bank of America Bldg., 650 South Spring
Street, Los Angeles 14, California, Attorneys
for Petitioner. [221]

Acknowledgement of Service

Personal service of a copy of the foregoing Statement of Points is hereby acknowledged as having been made this 4th day of August, 1947.

CHARLES OLIPHANT, CAR

Acting Chief Counsel,

Bureau of Internal Revenue,

Counsel for Respondent.

Filed T.C.U.S., September 24, 1947. [222]

The Tax Court of the United States

Tax Court Docket No. 5802

ESTATE OF JOSEPH H. HEIDT, Deceased,

LOUISE SEELEY, Executrix,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

PETITIONER'S DESIGNATION OF
CONTENTS OF RECORD ON REVIEW

To the Clerk of the Tax Court of the United States:

The petitioner hereby designates for inclusion in the record on review in the above entitled proceeding the following:

The complete record of all the proceedings and evidence taken before The Tax Court of the United States and all matters required by Subdivision (g) of Rule 75 of the Federal Rules of Civil Procedure, including the following:

1. Docket entries of all proceedings before the Tax Court.
2. Pleadings before The Tax Court, including the Petition with the attached copy of the deficiency letter; also all other pleadings before the Tax Court.
3. The Findings of Fact and Opinion of The Tax Court.
4. The decision of the Tax Court.
5. The official transcript of oral testimony and

the whole thereof.

6. Joint Exhibits A-1 (Tax Form), and petitioner's Exhibit 2.
7. The Petition for Review by the United States Circuit Court of Appeals for the Ninth Circuit.
8. Notice of Filing of Petition for Review, together with Proof of Service thereof and of service of a copy of the Petition for Review.
9. This designation of contents of record on review.
10. Petitioners Statements of Points to be relied upon and designation of parts of record to be printed.

Dated: August 4, 1947.

/s/ RALPH W. SMITH,

/s/ OLIVER O. CLARK,

/s/ L. A. LUCE,

/s/ JOHN MOORE ROBINSON,

/s/ ROBERT M. HIMROD,

Suite 917 Bank of America Bldg., 650 South Spring
Street, Los Angeles 14, California, Counsel for
Petitioner.

Acknowledgement of Service

Personal service of a copy of the foregoing Designation is hereby acknowledged as having been made this 22nd day of September, 1947.

CHARLES OLIPHANT, CAR

Acting Chief Counsel,

Bureau of Internal Revenue,

Counsel for Respondent.

Filed: September 24, 1947. [225]

[Title of Tax Court and Cause.]

CERTIFICATE

I, Victor S. Mersch, clerk of The Tax Court of the United States, do hereby certify that the foregoing pages, 1 to 225, inclusive, contain and are a true copy of the transcript of record, papers, and proceedings on file and of record in my office as called for by the Praecipe in the appeal (or appeals) as above numbered and entitled.

In testimony whereof, I hereunto set my hand and affix the seal of The Tax Court of the United States, at Washington, in the District of Columbia, this 6th day of October, 1947.

[Seal]

VICTOR S. MERSCH,

Clerk, The Tax Court of the
United States.

[Endorsed]: No. 11758. United States Circuit Court of Appeals for the Ninth Circuit. Estate of Joseph H. Heidt, deceased, Louise Seeley, Executrix, Petitioner, vs. Commissioner of Internal Revenue, Respondent. Transcript of Record. Upon Petition to Review a Decision of The Tax Court of the United States.

Filed October 16, 1947.

/s/ PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

